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TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION OF 1978

PART I.—CENTRAL ACTS AMENDED, REPEALED OR OTHERWISE AFFECTED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 1978 Act by which affected
1	2	3	4	5
1839	32	Interest Act, 1839	Repealed	14, s. 6.
1872	15	Indian Christian Marriage Act, 1872	S. 60 amended (w.e.f. 1-10-1978).	2, s. 6 and the Sch.
1884	4	Indian Explosives Act, 1884	Long title and Preamble amended (w.e.f. date to be notified).	32, s. 2.
			Ss. 1, 5, 6, 7, 8, 9, 9A, 13, 14, 15 and 18 amended (w.e.f. date to be notified).	*Ibid.*, ss. 3, 5, 7, 9, 10, 11 12, 15, 16, 17 and 19.
			Ss. 4 and 11 substituted (w.e.f. date to be notified).	*Ibid.*, ss. 4 and 14.
			Ss. 5A, 6A, 6B, 6C, 6D, 6E, 6F, 9B, 9C and 17A inserted (w.e.f. date to be notified).	*Ibid.*, ss. 6, 8, 13 and 18.
1898	6	Indian Post Office Act, 1898	First Schedule amended.	19, s. 39.
1908	5	Code of Civil Procedure, 1908	S. 123 and First Schedule amended.	38, s. 3 and Sch. II.
1908	15	Indian Ports Act, 1908	S. 5 amended.	17, s. 2.
1909	3	Presidency-towns Insolvency Act, 1909	Ss. 9 and 112 amended.	28, s. 2.
1920	5	Provincial Insolvency Act, 1920	Ss. 6 and 79 amended.	28, s. 3.
1929	19	Child Marriage Restraint Act, 1929	Ss. 2, 8 and 10 amended (w.e.f. 1-10-1978).	2, ss. 2, 4 and 5.
			S. 7 inserted (w.e.f. 1-10-1978).	*Ibid.*, s. 3.
1934	2	Reserve Bank of India Act, 1934	S. 17 amended (w.e.f. date to be notified).	21, s. 9.
			Throughout the Act for the words "Agricultural Refinance Corporation" the words "Agricultural Refinance and Development Corporation" shall be substituted (w.e.f. 21-7-1978).	24, s. 2.
			Ss. 2, 17, 18, 33, 46C, 48 and 53 amended (w.e.f. 21-7-1978).	*Ibid.*, ss. 3, 4, 5, 6, 7, 8 and 9.

1	2	3	4	5
1938	26	Employment of Children Act, 1938	Ss. 3, 3E, 4 and 7 amended (w.e.f. 1-3-1979).	39, ss. 2, 3, 4 and 5.
1939	4	Motor Vehicles Act, 1939	Ss. 2, 7, 8, 9, 10, 16, 21, 24, 26, 29, 30, 31, 31A, 34, 35, 41, 44, 47, 55, 58, 63, 64, 64A, 68, 68F, 72, 75, 110A, 110C, 129A, 132 and 133A and First Schedule, Second Schedule and Eighth Schedule amended (w.e.f. date to be notified).	47, ss. 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 36, 37, 38, 39, 40 and 42.
			S. 27 substituted (w.e.f. date to be notified).	*Ibid.*, s. 11.
			Ss. 29A, 82A, 112A and 124A inserted (w.e.f. date to be notified).	*Ibid.*, ss. 13, 31, 34 and 35.
			Sixth Schedule omitted (w.e.f. date to be notified).	*Ibid.*, s. 41.
1944	1	Central Excises and Salt Act, 1944	First Schedule amended.	19, s. 36.
			Ss. 3, 35 and 37 amended (w.e.f. 1-7-1978).	25, ss. 19, 22 and 25.
			S. 36 partly amended (w.e.f. 1-7-1978) and partly amended (w.e.f. 1-8-1978).	*Ibid.*, s. 24.
			Ss. 5, 11C and 37A inserted, (w.e.f. 1-7-1978).	*Ibid.*, ss. 20, 21 and 26.
			S. 35A substituted (w.e.f. 1-7-1978).	*Ibid.*, s. 23.
			Ss. 11A and 11B inserted.	*Ibid.*, s. 21.
1948	54	Electricity (Supply) Act, 1948	Ss. 1, 3, 15, 57, 57A, 60, 61, 62, 65, 69, 74, 75A, 79, 81 and 82 and Fourth Schedule, Sixth Schedule, Eighth Schedule and Ninth Schedule amended.	23, ss. 2, 3, 5, 6, 7, 9, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23 and 25.
			Seventh Schedule omitted.	*Ibid.*, s. 24.
			Ss. 12A and 66A inserted.	*Ibid.*, ss. 4 and 13.
			Ss. 59, 67 and 68 substituted.	*Ibid.*, ss. 8, 14 and 15.
1951	43	Representation of the People Act, 1951	Ss. 11A and 33 amended.	38, s. 3 and Sch. II.
1955	25	Hindu Marriage Act, 1955	Ss. 5, 12 and 18 amended. (w.e.f. 1-10-1978).	2, s. 6 and the Sch.
			S. 6 omitted.	*Ibid.*, s. 6 and the Sch.
1956	74	Central Sales Tax Act, 1956	S. 14 amended.	38, s. 3 and Sch. II.
1956	104	Suppression of Immoral Traffic in Women and Girls Act, 1956	Ss. 2, 4, 7, 9, 12, 13, 14, 15, 18, 21, 22 and 23 amended.	46, ss. 2, 4, 5, 6, 8, 9, 10, 11, 13, 15, 16 and 18.
			Ss. 2A, 22A and the Schedule inserted.	*Ibid.*, ss. 3, 17 and 19.
			Ss. 10, 10A, 16, 17 and 19 substituted.	*Ibid.*, ss. 7, 12 and 14.
1957	27	Wealth Tax Act, 1957	S. 45 amended (w.e.f. 1-4-1979).	29, s. 3.

1	2	3	4	5
1958	20	Probation of Offenders Act, 1958.	S. 18 amended.	46, s. 20.
1958	44	Merchant Shipping Act, 1958	Ss. 14, 15, 16, 18 and 19 amended.	1, ss. 2, 3, 4, 7 and 8.
			Ss. 16A and 17A inserted.	*Ibid.*, ss. 5 and 6.
1960	60	Children Act, 1960	Throughout the Act for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898), the words and figures "Code of Criminal Procedure, 1973 (2 of 1974) shall be substituted.	15, s. 2.
			Ss. 2, 4, 5, 6, 7, 9, 10, 11 14, 15, 17, 18, 24, 28, 50, 55, 58 and 59 amended.	*Ibid.*, ss. 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18 and 19.
			S. 12 substituted.	*Ibid.*, s. 11.
1961	43	Income-tax Act, 1961	Ss. 54, 54B, 54D and 155 amended. (w.e.f. 1-4-1974).	19, ss. 10, 11, 12 and 19.
			Ss. 2, 35B, 54E, 72A, 193, 197, 198, 199, 200, 202, 203, 204 and 205 amended (w.e.f. 1-4-1978).	*Ibid.*, ss. 6, 13, 14, 20 and 32.
			Ss. 80CC and 194BB inserted (w.e.f. 1-4-1978).	*Ibid.* ss. 17 and 21.
			Ss. 208, 209, 211, 212, 215, 216, 217 and 273 amended (w.e.f. 1-6-1978).	*Ibid.*, ss. 22, 23, 25, 26, 27, 28, 29 and 31.
			Ss. 35CCA and 209A inserted (w.e.f. 1-6-1978).	*Ibid.*, ss. 7 and 24.
			S. 218 substituted (w.e.f. 1-6-1978).	*Ibid.*, s. 30.
			Ss. 6, 23, 32, 37, 80A, 80C and 86P amended (w.e.f. 1-4-1979).	*Ibid.*, ss. 3, 4, 5, 8, 15 and 16.
			S. 52 amended (retrospectively).	*Ibid.*, s. 9.
			S. 13A inserted (w.e.f. 1-4-1979).	29, s. 2.
			Ss. 37 and 139 amended (w.e.f. 1-4-1979).	*Ibid.*, s. 2.
1961	47	Deposit Insurance Corporation Act, 1961	Long title, ss. 1, 2, 3, 4, 6, 15, 23, 24, 25, 26, 30, 34, 35, 36, 38 and 39 and the First Schedule amended (w.e.f. 15-7-1978).	21, s. 8.
			Ss. 15A, Chapter III-A (ss. 21A and 21B), 23A, 25A inserted (w.e.f. 15-7-1978).	*Ibid.*, s. 8.
			Ss. 22, 27 and 49 substituted (w.e.f. 15-7-1978).	*Ibid.*, s. 8.
1962	52	Customs Act, 1962	Ss. 2, 14, 15, 27, 28, 46, 61, 75, 113, 121, 128, 135 and 159 amended (w.e.f. 1-7-1978).	25, ss. 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 16 and 18.

1	2	3	4	5
			Ss. 28A and 143A inserted (w.e.f. 1-7-1978).	*Ibid.*, ss. 7 and 17.
			S. 130 substituted (w.e.f. 1-7-1978).	*Ibid.*, s. 14.
			S. 131 amended (w.e.f. 1-8-1978).	*Ibid.*, s. 15.
1963	38	Major Port Trusts Act, 1963.	S. 133 amended.	17, s. 3.
1963	54	Central Boards of Revenue Act, 1963	S. 3 amended (w.e.f. 21-6-1978).	25, s. 27.
1967	15	Passports Act, 1967	Ss. 5, 13, 14, 23 and 24 amended.	31, ss. 2, 3, 4, 5 and 6.
1970	41	Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1970	Repealed.	38, s. 2 and Sch. I.
1971	7	Imports and Exports (Control) Amendment Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	15	State of Himachal Pradesh (Amendment) Act, 1971	Repealed.	38. s. 2 and Sch. I.
1971	16	Labour Provident Fund Laws (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	21	Gold Control (Amendment) Act, 1971	Ss. 2, 3 and 6 repealed.	38, s. 2 and Sch. I.
1971	22	Salaries and Allowances of Officers of Parliament (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	26	Maintenance of Internal Security Act, 1971	Repealed.	27, s. 2.
1971	31	West Bengal State Legislature (Delegation of Powers) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	33	Indian Telegraph (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	35	Gujarat State Legislature (Delegation of Powers) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	36	Punjab State Legislature (Delegation of Powers) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	39	Agricultural Refinance Corporation (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	41	Prevention of Food Adulteration (Amendment) Act, 1971	Ss. 2 and 3 Repealed.	38, s. 2 and Sch. I.
1971	44	Stamp and Excise Duties (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	45	Industrial Disputes (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	49	Air Corporations (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	53	Forward Contracts (Regulation) Amendment Act, 1971	Repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1971	54	Coal Bearing Areas (Acquisition and Development) Amendment and Validation Act, 1971	Ss. 2 to 7 repealed.	38, s. 2 and Sch. I.
1971	55	Arms (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	57	Visva-Bharati (Amendment) Act, 1971	Ss. 2 to 12 and 14 repealed.	38, s. 2 and Sch. I.
1971	66	Essential Commodities (Amendment) Act, 1971	Ss. 2, 3 and 5 repealed.	38, s, 2 and Sch. I.
1971	67	Indian Tariff (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	71	Delhi Road Transport Laws (Amendment) Act, 1971	Ss. 2 and 8 repealed.	38, s. 2 and Sch. I.
1971	72	Industries (Development and Regulation) Amendment Act, 1971	Ss. 2 to 10 repealed.	38, s. 2 and Sch. I.
1971	74	Personal Injuries (Emergency Provisions) Amendment Act, 1971	Ss. 2 and 3 repealed.	38, s. 2 and Sch. I.
1971	75	Personal Injuries (Compensation Insurance) Amendment Act, 1971	Ss. 2, 3 and 4 repealed.	38, s. 2 and Sch. I.
1971	77	Supreme Court Judges (Conditions of Service) Amendment Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	78	High Court Judges (Conditions of Service) Amendment Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	79	Commissions of Inquiry (Amendment) Act, 1971	Ss. 2 to 14 repealed.	38, s. 2 and Sch. I.
1971	80	Companies (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1971	83	Government of Union Territories (Amendment) Act, 1971	Repealed.	38, s. 2 and Sch. I.
1972	7	Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972	Ss. 2 to 4 repealed.	38, s. 2 and Sch. I.
1972	8	Administrators General (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	10	Contingency Fund of India (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	12	Aircraft (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	21	Maternity Benefit (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	22	Cantonments (Extension of Rent Control Laws) Amendment Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	23	Secunderabad and Aurangabad cantonments House Rent Control Law (Repeal) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	25	Taxation Laws (Extension to Jammu and Kashmir) Act, 1972	Sub-section (3) of sec. 2 and the Schedule repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1972	27	General Insurance (Emergency Provisions) Amendment Act, 1972	Ss. 2 and 3 repealed.	38, s. 2 and Sch. I.
1972	29	Salaries and Allowances of Members of Parliament (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	31	Criminal Law (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	32	Industrial Disputes (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	33	University Grants Commission (Amendment) Act, 1972	Ss. 2 to 8 and 10 repealed.	38, s. 2 and Sch. I.
1972	34	Aligarh Muslim University (Amendment) Act, 1972	Ss. 2 to 32 repealed.	38, s. 2 and Sch. I.
1972	36	Coking Coal Mines (Nationalisation) Act, 1972	S. 24A inserted (w.e.f. 1-5-1972)	22, s. 7.
			S. 3 amended (w.e.f. 1-5-1972).	*Ibid.*, s. 2.
			S. 27 amended (w.e.f. 29-3-1976).	*Ibid.*, s. 9.
			Ss. 20 and 23 amended.	*Ibid.*, ss. 3 and 5.
			Ss. 22A, 23A and 25A inserted.	*Ibid.*, ss. 4, 6 and 8.
1972	37	Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	38	Indian Telegraph (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	40	Victoria Memorial (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	41	Income-tax (Amendment) Act, 1972	Ss. 2, 3 and 6 repealed.	38, s. 2 and Sch. I.
1972	42	Dentists (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	45	Taxation Laws (Amendment) Act, 1972	Ss. 2 to 24 repealed.	38, s. 2 and Sch. I.
1972	46	Insecticides (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	47	Rice-Milling Industry (Regulation) Amendment Act, 1972	Repealed.	38, s. 2 and Sch.
1972	48	Delhi University (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	49	Punjab New Capital (Periphery) Control (Chandigarh Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	54	Rulers of Indian States (Abolition of Privileges) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	55	Seeds (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	56	Mines and Minerals (Regulation and Development) Amendment Act, 1972	Repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1972	57	General Insurance Business (Nationalisation) Act, 1972	S. 40 repealed.	38, s. 2 and Sch. I.
1972	58	Indian Copper Corporation (Acquisition of Undertaking) Act, 1972	S. 19 repealed.	38, s. 2 and Sch. I.
1972	60	Khadi and other Handloom Industries (Development) (Additional Excise Duty on Cloth) Amendment Act, 1972	Ss. 2 and 3 repealed.	38, s. 2 and Sch. I.
1972	61	Central Sales Tax (Amendment) Act, 1972	Ss. 2 to 13 repealed.	38, s. 2 and Sch. I.
1972	67	Food Corporations (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	68	Payment of Bonus (Amendment) Act, 1972	Repealed	38, s. 2 and Sch. I.
1972	69	Carriage by Air Act, 1972	S. 9 repealed.	38, s. 2 and Sch. I.
1972	70	Coal Mines Labour Welfare Fund (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	71	Indian Railways (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	73	Indian Tariff (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	74	Industrial Finance Corporation (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	75	Industrial Development Bank of India (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1972	77	State Financial Corporations (Amendment) Act, 1972	Repealed.	38, s. 2 and Sch. I.
1973	1	Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	2	Diplomatic and Consular Officers (Oaths and Fees) (Extension to Jammu and Kashmir) Act, 1973	S. 3 repealed.	38, s. 2 and Sch. I.
1973	3	Seaward Artillery Practice (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	8	The Andhra Pradesh State Legislature (Delegation of Powers) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	17	The Capital of Punjab (Development and Regulation) (Chandigarh Amendment) Act, 1973	Ss. 2 to 6 repealed.	38, s. 2 and Sch. I.
1973	20	The Orissa State Legislature (Delegation of Powers) Act, 1973.	Repealed.	38, s. 2 and Sch. I.
1973	22	Central Excises and Salt (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	23	Manipur State Legislature (Delegation of Powers) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	25	Cinematograph (Amendment) Act, 1973	Ss. 2 to 4 repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1973	26	Coal Mines (Nationalisation) Act, 1973	S.2 amended (w.e.f. 1-5-1973).	22, s. 10.
			S. 20 partly amended (w.e.f. 1-5-1973) and partly amended (w.e.f. 1-11-1975).	*Ibid.*, s. 13.
			S. 24A inserted (w.e.f. 1-5-1973).	*Ibid.*, s. 16.
			Ss. 18, 23, 27 and 30 amended.	*Ibid.*, ss. 11, 14, 18 and 19.
			Ss. 19A, 23A and 25A inserted.	*Ibid.*, ss. 12, 15 and 17.
			S. 22 amended.	38, s. 2 and Sch. I.
1973	27	Apprentices (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	32	National Co-operative Development Corporation (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	33	The Uttar Pradesh State Legislature (Delegation of Powers) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	36	Customs, Gold (Control) and Central Excises and Salt (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	37	Agricultural Refinance Corporation (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	39	Payment of Bonus (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	40	Employees' Provident Fund and Family Pension Fund (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	41	Coking and Non-coking Coal Mines (Nationalisation) Amendment Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	44	Reserve Bank of India (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	45	Indian Railways (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	47	Foreign Awards (Recognition and Enforcement) Amendment Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	48	State Bank Laws (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	49	Code of Civil Procedure (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	51	Textiles Committee (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	52	Maternity Benefit (Amendendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	54	Indian Railways (Second Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	55	Payment of Bonus (Second Amendment) Act, 1973	S. 2 repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1973	58	Central Excises and Salt (Second Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	60	Advocates (Amendment) Act, 1973	Repealed.	38, s. 2 and Sch. I.
1973	66	Income-tax (Amendment) Act, 1973	S. 2 repealed.	38, s. 2 and Sch. I.
1973	67	Industries (Development and Regulation) Amendment Act, 1973	Repealed.	38, s. 2 and Sch. I.
1974	2	Code of Criminal Procedure, 1973	Ss. 2, 11, 13, 14, 18, 20, 25, 102, 107, 123, 167, 182, 196, 198, 206, 209, 276, 293, 297, 299, 309, 320, 323, 326, 374, 377, 378, 428, 468 and 478 and the Second Schedule amended.	45, ss. 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34 and 35.
			S. 24 substituted.	*Ibid.*, s. 8.
			S. 433A inserted.	*Ibid.*, s. 32.
1974	3	National Co-operative Development Corporation (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	4	ESSO (Acquisition of Undertakings in India) Act, 1974	S. 4 amended.	38, s. 3 and Sch. II.
1974	5	Presidential and Vice-Presidential Elections (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	6	Water (Prevention and Control of Pollution) Act, 1974	Ss. 2, 3, 4, 5, 10, 12, 14, 21, 23, 25, 26, 27, 28, 36, 37, 39, 49, 63 and 64 amended.	44, ss. 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21.
			S. 11A inserted.	*Ibid.*, s. 7.
1974	8	North-Eastern Areas (Reorganisation) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	11	Gujarat State Legislature (Delegation of Powers) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	21	Estate Duty (Distribution) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	22	Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	23	Union Duties of Excise (Distribution) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	26	Direct Taxes (Amendment) Act, 1974	Ss. 2 to 21 repealed.	38, s. 2 and Sch. I.
1974	28	Coal Mines (Conservation and Development) Act, 1974	S. 19 repealed.	38, s. 2 and Sch. I.
1974	29	Major Port Trusts (Amendment) Act, 1974	Ss. 2 to 39 repealed.	38, s. 2 and Sch. I.
1974	30	Essential Commodities (Amendment) Act, 1974	Ss. 2 to 12 and 14 repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1974	32	Industries (Development and Regulation) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	33	Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	36	Indian Iron and Steel Company (Taking over of Management) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	38	Compulsory Deposit Scheme (Income-tax Payers) Act, 1974	Ss. 4 and 5 and the Sch. amended (w.e.f. 1-4-1978).	19, s. 40.
1974	40	ESSO (Acquisition of Undertakings in India) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	41	Companies (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	42	Payment of Bonus (Amendment) Act. 1974	Repealed.	38, s. 2 and Sch. I.
1974	45	Interest-tax Act, 1974	S. 6 amended (w.e.f. 1-4-1979)	19, s. 33.
			contd S. 30 repealed.	38, s. 2 and Sch. I.
1974	46	Delhi Sikh Gurdwaras (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	48	Indian Telegraph (Amendment) Act, 1974	S. 2 repealed.	38, s. 2 and Sch. I.
1974	49	Small Coins (Offences) Amendment Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	50	Indian Works of Defence (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	51	Reserve Bank of India (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	53	Navy (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	55	Delhi Municipal Corporation (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	56	Repealing and Amending Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	59	Punjab Municipal (Chandigarh Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	60	Working Journalists (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1974	65	Salaries and Allowances of Members of Parliament (Amendment) Act, 1974	Repealed.	38, s. 2 and Sch. I.
1975	1	Indian Tariff (Amendment) 1975	Repealed.	38, s. 2 and Sch. I
1975	2	Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.

1	2	3	4	5
1975	3	North-Eastern Areas (Reorganisation) Amendment Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	4	Tobacco Board Act, 1975	Ss. 4, 8, 13 and 32 amended.	36, ss. 2, 3, 4 and 6.
			S. 14A inserted.	*Ibid.*, s. 5.
1975	13	Air Force and Army Laws (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	16	Trust Laws (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	19	All India Services Regulations (Idemnity) Act, 1975	S. 3 repealed.	38, s. 2 and Sch. I.
1975	23	All India Services (Amendment) Act, 1975	S. 2 repealed.	38, s. 2 and Sch. I.
1975	24	Former Secretary of State Service Officers (Conditions of Service) Amendment Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	26	Tobacco Cess Act, 1975	Ss. 2 and 3 amended.	38, s. 2 and Sch. I.
1975	28	Companies (Temporary Restrictions on Dividends) Amendment Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	31	Nagaland State Legislature (Delegation of Powers) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	38	Employees State Insurance (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	39	Maintenance of Internal Security (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	42	Banking Service Commission Act, 1975	Repealed.	20, s. 3.
1975	43	Delhi Sales-tax Act, 1975	Ss. 14 and 19 amended.	38, s. 3 and Sch. II.
1975	44	Telegraph Wires (Unlawful Possession) Amendment Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	45	Agricultural Refinance Corporation (Amendment) Act, 1975	Sub-section (1) of section 2 and sections 3 to 15 repealed.	38, s. 2 and Sch. I.
1975	46	Provident Funds (Amendment) Act, 1975	Repealed.	38, s. 2. and Sch. I.
1975	47	Indian Coinage (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	48	Salaries and Allowances of Members of Parliament (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	50	National Cadet-Corps (Amendment) Act, 1975	Repealed.	38, s. 2 and Sch. I.
1975	51	Customs Tariff Act, 1975	First Schedule amended.	19, s. 34.
			Ss. 4 and 7 and First Schedule amended (w.e.f. 1-9-1978).	26, ss. 2, 3 and 4.
1975	52	Public Financial Institutions Laws (Amendment) Act, 1975	Ss. 2 to 20 and 22 to 51 repealed.	38, s. 2 and Sch. I.

PART II.—ORDINANCES REPEALED

Year	No.	Short title of Ordinance	No. and section of 1978 Act by which repealed
1	2	3	4
1978	1	High Denomination Bank Notes (Demonetisation) Ordinance, 1978.	11, s. 15 (w.e.f. 16-1-1978).
1978	2	Delhi Police Ordinance, 1978	34, s. 152 (w.e.f. 1-7-1978).
1978	3	Payment of Bonus (Amendment) Ordinance, 1978 .	48, s. 3 (w.e.f. 8-9-1978).
1978	4	Additional Duties of Excise (Textiles and Textile Articles) Ordinance, 1978	40, s. 4. (w.e.f. 4-10-1978).
1978	5	Sugar Undertakings (Taking over of Management) Ordinance, 1978	49, s. 22 (w.e.f. 9-11-1978).

PART III.— CONSTITUTION OF INDIA AMENDED

How affected	No. and section of 1978 Act by which affected
Articles 31D, 32A, 131A, 144A, 226 A and 228A omitted . .	Constitution (Forty-third Amendment) Act, 1977—ss. 2, 3, 4, 5, 8 and 10.
Articles 145, 226, 228 and 366 amended	*Ibid.*, ss. 6, 7, 9 and 11.

Rep. by Act 12 of 1988, S. 2 & Sch. I

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1978

No. 1 of 1978

[13*th March*, 1978.]

An Act further to amend the Merchant Shipping Act, 1958.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Merchant Shipping (Amendment) Act, 1978. Short title.

44 of 1958. 2. In section 14 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after clause (*b*), the following clause shall be inserted, namely:— Amendment of section 14.

"(*bb*) the amounts received by the said Committee on the issue and sale of bonds and debentures;".

3. In sub-section (*1*) of section 15 of the principal Act, for the word "six", the word "twelve" shall be substituted. Amendment of section 15.

4. In section 16 of the principal Act,— Amendment of section 16.

(*i*) in sub-section (*1*), for the words and figures "in any other form to persons of the description mentioned in section 21 for acquisition and maintenance of ships.", the following shall be substituted, namely:—

"in any other form,—

(*a*) to persons of the description mentioned in section 21—

(*i*) for the acquisition and maintenance of ships, including modification, reconstruction and renovation thereof; and

(*ii*) for meeting any short-term financial requirements;

(*b*) to Indian ship-yards for the construction of new ships.";

REPEALED

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

"(*2*) The Committee shall not grant any loan or give any financial assistance under sub-section (*1*) except on such terms and conditions as the Central Government may from time to time specify, and any such term may, if the loan or financial assistance is granted or given to a company, provide for the appointment by the Committee of one or more directors of such company and such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company and any provision regarding share qualification, age limit, number of directorships, removal from office of director and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Committee in pursuance of the term as aforesaid. 1 of 1956.

(*2A*) Any director appointed in pursuance of sub-section (*2*) shall,—

(*a*) hold office during the pleasure of the Committee and may be removed or substituted by any person by order in writing by the Committee;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

(*2B*) Every director appointed by the Committee shall be indemnified by the Committee against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(*2C*) No suit or other legal proceeding shall lie against any director appointed by the Committee for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.".

Insertion of new section 16A.

5. After section 16 of the principal Act, the following section shall be inserted, namely:—

Borrowing powers.

"16A. (*1*) The Committee may issue and sell bonds and debentures, with or without interest, for the purpose of carrying out the objects of the Fund.

(*2*) The bonds and debentures of the Committee shall be guaranteed by the Central Government as to the repayment of the prin-

cipal and the payment of interest, at such rate as may be fixed by the Central Government on the recommendation of the Committee at the time the bonds and debentures are issued.".

6. After section 17 of the principal Act, the following section shall be inserted and shall be deemed always to have been inserted, namely:— Insertion of new section 17A.

"17A. Notwithstanding anything contained in any enactment for the time being in force relating to income-tax or wealth-tax, the Committee shall not be liable to pay— Exemption from liability to pay income-tax and wealth-tax.

(*a*) income-tax in respect of its income, profits or gains; and

(*b*) wealth-tax in respect of its net wealth.".

7. In section 18 of the principal Act, for the words "and thereupon all the property vested in the Committee shall vest in the Central Government.", the following shall be substituted, namely:— Amendment of section 18.

"and thereupon—

(*a*) all the property vested in the Committee shall vest in the Central Government; and

(*b*) all the liabilities of the Committee shall become the liabilities of the Central Government".

8. In sub-section (2) of section 19 of the principal Act, after clause (*f*), the following clause shall be inserted, namely:— Amendment of section 19.

"(*ff*) the manner and terms of issue, sale and redemption of bonds and debentures by the Committee;".

Rep. by Act 19 of 1988, s. 2 & Sch. I

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) ACT, 1978

NO. 2 OF 1978

[13*th March*, 1978.]

An Act further to amend the Child Marriage Restraint Act, 1929, and to make certain consequential amendments in the Indian Christian Marriage Act, 1872, and the Hindu Marriage Act, 1955.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Child Marriage Restraint (Amendment) Act, 1978.

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

Amendment of section 2.

2. In section 2 of the Child Marriage Restraint Act, 1929 (hereinafter referred to as the principal Act), for clause (*a*), the following clause shall be substituted, namely:— 19 of 1929.

'(*a*) "child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;'.

Insertion of new section 7.

3. After section 6 of the principal Act, the following section shall be inserted, namely:—

Offences to be cognizable for certain purposes.

"7. The Code of Criminal Procedure, 1973, shall apply to offences under this Act as if they were cognizable offences— 2 of 1974.

(*a*) for the purpose of investigation of such offences; and

(*b*) for the purposes of matters other than (*i*) matters referred to in section 42 of that Code, and (*ii*) the arrest of a person without a warrant or without an order of a Magistrate.".

Amendment of section 8.

4. In section 8 of the principal Act,—

(*a*) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898. 2 of 1974.

(*b*) for the words "Presidency Magistrate or a Magistrate of the first class", the words "Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

Amendment of section 10.

5. In section 10 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

6. The enactments specified in the Schedule are hereby amended in the manner mentioned therein.

Amendment of certain enactments.

THE SCHEDULE

[*See* section 6]

Year (1)	No. (2)	Short title (3)	Amendments (4)
1872	15	The Indian Christian Marriage Act, 1872.	In section 60,— (*i*) in condition number (1), for the words "eighteen years" and "fifteen years", the words "twenty-one years" and "eighteen years" shall respectively be substituted; (*ii*) the proviso shall be omitted.
1955	25	The Hindu Marriage Act, 1955.	(1) In section 5,— (*i*) in clause (*iii*), for the words "eighteen years" and "fifteen years", the words "twenty-one years" and "eighteen years" shall respectively be substituted; (*ii*) clause (*vi*) shall be omitted. (2) Section 6 shall be omitted. (3) In section 12, in sub-section (1), in clause (*c*), for the words and figure "is required under section 5", the words, figures and brackets "was required under section 5 as it stood immediately before the commencement of the Child Marriage Restraint (Amendment) Act, 1978" shall be substituted. (4) In section 18,— (*i*) for the brackets, letters and word "(*v*) and (*vi*)", the word, brackets and letter "and (*v*)" shall be substituted; (*ii*) in clause (*b*), the word "and" occurring at the end shall be omitted; (*iii*) clause (*c*) shall be omitted.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1978

No. 3 OF 1978

[28*th March*, 1978]

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 1978-79.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Vote on Account) Act, 1978. Short title.

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 seven thousand three hundred and ninety-two crores, forty-two lakhs and seventy-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1978-79. Withdrawal of Rs. 7392,42,78,000 from and out of the Consolidated Fund of India for the financial year 1978-79.

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. Appropriation.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 23rd February, 1978 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time. Construction of references to Ministries and Departments in the Schedule.

THE SCHEDULE

(*See* sections 2, 3 and 4)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture . .	Revenue	42,71,000	2,000	42,73,000
2	Agriculture . . .	Revenue	35,78,47,000	..	35,78,47,000
		Capital	97,62,03,000	18,83,52,000	116,45,55,000
3	Fisheries	Revenue	5,54,31,000	..	5,54,31,000
		Capital	5,69,44,000	13,07,000	5,82,51,000
4	Animal Husbandry and Dairy Development .	Revenue	17,12,30,000	3,000	17,12,33,000
		Capital	1,21,04,000	70,28,000	1,91,32,000
5	Forest . . .	Revenue	5,72,19,000	..	5,72,19,000
		Capital	63,75,000	90,08,000	1,53,83,000
6	Department of Food	Revenue	78,28,54,000	52,000	78,29,06,000
		Capital	6,32,77,000	13,33,000	6,46,10,000
7	Department of Rural Development . .	Revenue	48,47,86,000	2,000	48,47,88,000
		Capital	4,12,91,000	1,09,95,000	5,22,86,000
8	Department of Agricultural Research and Education . .	Revenue	2,12,000	..	2,12,000
9	Payments to Indian Council of Agricultural Research . .	Revenue	11,99,95,000	..	11,99,95,000
10	Department of Irrigation	Revenue	4,19,94,000	..	4,19,94,000
		Capital	1,45,15,000	3,34,00,000	4,79,15,000
11	Ministry of Commerce, Civil Supplies and Co-operation . . .	Revenue	29,81,000	..	29,81,000
12	Foreign Trade and Export Production .	Revenue	49,18,92,000	..	49,18,92,000
		Capital	67,60,90,000	..	67,60,90,000
13	Civil Supplies and Co-operation . .	Revenue	6,25,38,000	..	6,25,38,000
		Capital	3,67,57,000	55,26,000	4,22,83,000
14	Ministry of Communications . . .	Revenue	31,14,000	..	31,14,000
		Capital	2,21,87,000	..	2,21,87,000
15	Overseas Communications Service . .	Revenue	1,88,68,000	..	1,88,68,000
		Capital	1,84,02,000	..	1,84,02,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
16	Posts and Telegraphs—Working Expenses	Revenue	108,84,15,000	5,000	108,84,20,000
17	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Repayment of Loans from General Revenues	Revenue	31,08,97,000	..	31,08,97,000
18	Capital Outlay on Posts and Telegraphs	Capital	57,89,73,000	..	57,89,73,000
19	Ministry of Defence	Revenue	14,78,76,000	..	14,78,76,000
		Capital	11,71,73,000	4,07,000	11,75,80,000
20	Defence Services—Army	Revenue	316,32,08,000	2,08,000	316,34,16,000
21	Defence Services—Navy	Revenue	34,25,62,000	25,000	34,25,87,000
22	Defence Services—Air Force	Revenue	97,68,98,000	25,000	97,69,23,000
23	Defence Services—Pensions	Revenue	25,10,46,000	8,000	25,10,54,000
24	Capital Outlay on Defence Services	Capital	48,89,86,000	5,00,000	48,94,86,000
25	Department of Education	Revenue	29,31,000	..	29,31,000
26	Education	Revenue	36,36,59,000	..	36,36,59,000
		Capital	18,33,000	67,83,000	86,16,000
27	Department of Social Welfare	Revenue	4,14,73,000	..	4,14,73,000
28	Ministry of Energy	Revenue	11,28,000	..	11,28,000
29	Power Development	Revenue	10,65,28,000	..	10,65,28,000
		Capital	34,96,43,000	3,21,67,000	38,18,10,000
30	Coal and Lignite	Revenue	4,71,15,000	..	4,71,15,000
		Capital	66,16,50,000	..	66,16,50,000
31	Ministry of External Affairs	Revenue	18,92,88,000	4,000	18,92,92,000
		Capital	2,46,38,000	..	2,46,38,000
32	Ministry of Finance	Revenue	5,61,86,000	7,000	5,61,93,000
33	Customs	Revenue	5,50,73,000	7,000	5,50,80,000
34	Union Excise Duties	Revenue	8,44,02,000	43,000	8,44,45,000
35	Taxes on Income, Estate Duty, Wealth-Tax and Gift-Tax	Revenue	8,31,78,000	38,000	8,32,16,000
36	Stamps	Revenue	3,10,17,000	..	3,10,17,000
		Capital	21,00,000	..	21,00,000
37	Audit	Revenue	10,26,97,000	16,44,000	10,43,41,000
38	Currency, Coinage and Mint	Revenue	8,46,45,000	..	8,46,45,000
		Capital	3,63,28,000	..	3,63,28,000
39	Pensions	Revenue	11,12,50,000	12,50,000	11,25,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
40	Opium and Alkaloid Factories . . .	Revenue	28,61,99,000	*1,000*	28,62,00,000
		Capital	38,62,000	..	38,62,000
41	Transfers to State and Union Territory Governments . . .	Revenue	280,93,58,000	*364,66,08,000*	645,59,66,000
		Capital	..	*662,33,83,000*	662,33,83,000
	CHARGED—*Interest Payments* . .	Revenue	..	*317,57,47,000*	317,57,47,000
42	Other Expenditure of the Ministry of Finance	Revenue	40,65,86,000	*57,000*	40,66,43,000
		Capital	304,46,73,000	..	304,46,73,000
43	Loans to Government Servants, etc. . .	Capital	11,66,67,000	..	11,66,67,000
	CHARGED—*Repayment of Debt* . . .	Capital	..	*2430,68,63,000*	2430,68,63,000
44	Ministry of Health and Family Welfare .	Revenue	14,77,000	..	14,77,000
45	Medical and Public Health . . .	Revenue	30,80,53,000	..	30,80,53,000
		Capital	13,53,71,000	*50,000*	13,54,21,000
46	Family Welfare . .	Revenue	20,34,60,000	..	20,34,60,000
		Capital	17,000	..	17,000
47	Ministry of Home Affairs	Revenue	41,40,000	..	41,40,000
48	Cabinet . . .	Revenue	21,39,000	..	21,39,000
49	Department of Personnel and Administrative Reforms . .	Revenue	1,23,80,000	*3,000*	1,23,83,000
		Capital	..	*16,67,000*	16,67,000
50	Police . . .	Revenue	36,43,94,000	*19,000*	36,44,13,000
		Capital	1,21,67,000	*1,79,17,000*	3,00,84,000
51	Census . . .	Revenue	86,63,000	..	86,63,000
52	Other Expenditure of the Ministry of Home Affairs . . .	Revenue	31,76,58,000	*20,19,83,000*	51,96,41,000
		Capital	14,15,34,000	*79,49,000*	14,94,83,000
53	Delhi . . .	Revenue	23,67,78,000	*10,48,000*	23,78,26,000
		Capital	14,64,33,000	*33,33,000*	14,97,66,000
54	Chandigarh . .	Revenue	3,59,64,000	*12,23,000*	3,71,87,000
		Capital	1,61,87,000	*1,00,000*	1,62,87,000
55	Andaman and Nicobar Islands . .	Revenue	4,16,27,000	*1,000*	4,16,28,000
		Capital	2,24,50,000	..	2,24,50,000
56	Dadra and Nagar Haveli . .	Revenue	42,41,000	..	42,41,000
		Capital	42,76,000	..	42,76,000
57	Lakshadweep .	Revenue	84,63,000	..	84,63,000
		Capital	31,76,000	..	31,76,000
58	Ministry of Industry .	Revenue	51,56,000	..	51,56,000
59	Industries . .	Revenue	4,26,83,000	..	4,26,83,000
		Capital	39,95,22,000	..	39,95,22,000
60	Village and Small Industries . .	Revenue	9,15,83,000	*25,00,000*	9,40,83,000
		Capital	8,67,68,000	*1,86,67,000*	10,54,35,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
61	Textiles, Handloom and Handicrafts .	Revenue	10,07,71,000	..	10,07,71,000
		Capital	7,51,42,000	*3,04,58,000*	10,56,00,000
62	Ministry of Information and Broadcasting .	Revenue	13,89,000	..	13,89,000
63	Information and Publicity . . .	Revenue	3,17,74,000	..	3,17,74,000
		Capital	27,29,000	..	27,29,000
64	Broadcasting . .	Revenue	11,52,66,000	..	11,52,66,000
		Capital	3,00,64,000	..	3,00,64,000
65	Ministry of Labour .	Revenue	13,68,000	..	13,68,000
66	Labour and Employment . .	Revenue	11,50,66,000	*4,000*	11,50,70,000
		Capital	1,60,000	..	1,60,000
67	Ministry of Law, Justice and Company Affairs	Revenue	2,35,35,000	..	2,35,35,000
		Capital	17,000	..	17,000
68	Administration of Justice . . .	Revenue	6,42,000	*11,18,000*	17,60,000
69	Ministry of Petroleum, Chemicals and Fertilizers . . .	Revenue	18,19,000	..	18,19,000
70	Petroleum and Petro-Chemicals Industries	Revenue	13,27,39,000	..	13,27,39,000
		Capital	31,44,47,000	..	31,44,47,000
71	Chemicals and Fertilizers Industries	Revenue	20,52,44,000	..	20,52,44,000
		Capital	685,06,96,000	..	685,06,96,000
72	Ministry of Planning	Revenue	43,000	..	43,000
73	Statistics . . .	Revenue	2,29,85,000	..	2,29,85,000
74	Planning Commission	Revenue	79,86,000	..	79,86,000
75	Ministry of Shipping and Transport	Revenue	50,83,000	*2,000*	50,85,000
76	Roads . . .	Revenue	17,08,68,000	*4,000*	17,08,72,000
		Capital	16,39,42,000	*1,92,83,000*	18,32,25,000
77	Ports, Lighthouses and Shipping . .	Revenue	6,66,05,000	*1,000*	6,66,06,000
		Capital	32,61,50,000	*13,00,000*	32,74,50,000
78	Road and Inland Water Transport .	Revenue	12,09,000	..	12,09,000
		Capital	1,63,00,000	*34,50,000*	1,97,50,000
79	Department of Steel	Revenue	2,13,61,000	..	2,13,61,000
		Capital	89,80,48,000	*4,08,50,000*	93,88,98,000
80	Department of Mines	Revenue	5,83,000	..	5,83,000
81	Mines and Minerals	Revenue	8,75,17,000	..	8,75,17,000
		Capital	10,04,83,000	*10,00,000*	10,14,83,000
82	Department of Supply	Revenue	4,09,000	..	4,09,000
83	Supplies and Disposals	Revenue	1,26,43,000	..	1,26,43,000
84	Department of Rehabilitation . . .	Revenue	4,63,28,000	*18,000*	4,63,46,000
		Capital	2,16,20,000	*1,79,00,000*	3,95,20,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
85	Ministry of Tourism and Civil Aviation .	Revenue	8,90,000	..	8,90,000
86	Meteorology . .	Revenue	2,89,52,000	..	2,89,52,000
		Capital	1,39,76,000	..	1,39,76,000
87	Aviation . . .	Revenue	4,68,78,000	*8,000*	4,68,86,000
		Capital	4,69,61,000	*1,67,000*	4,71,28,000
88	Tourism . . .	Revenue	78,62,000	..	78,62,000
		Capital	56,03,000	..	56,03,000
89	Ministry of Works and Housing . .	Revenue	19,40,000	..	19,40,000
90	Public Works .	Revenue	12,87,04,000	*2,000*	12,87,06,000
		Capital	6,38,41,000	*83,000*	6,39,24,000
91	Water Supply and Sewerage .	Revenue	10,45,00,000	..	10,45,00,000
92	Housing and Urban Development .	Revenue	2,58,31,000	*11,60,000*	2,69,91,000
		Capital	6,13,84,000	*7,61,33,000*	13,75,17,000
93	Stationery and Printing	Revenue	5,66,26,000	*1,000*	5,66,27,000
94	Department of Atomic Energy . .	Revenue	8,57,000		8,57,000
95	Atomic Energy Research, Development and Industrial Projects . .	Revenue	12,95,18,000	..	12,95,18,000
		Capital	32,86,54,000	..	32,86,54,000
96	Nuclear Power Schemes . .	Revenue	9,55,50,000	..	9,55,50,000
		Capital	7,89,89,000	*5,67,000*	7,95,56,000
97	Department of Culture .	Revenue	1,82,54,000	..	1,82,54,000
98	Archaeology . .	Revenue	1,19,99,000	..	1,19,99,000
99	Department of Electronics .	Revenue	1,68,86,000	..	1,68,86,000
		Capital	5,74,40,000	..	5,74,40,000
100	Department of Science and Technology .	Revenue	5,55,60,000	..	5,55,60,000
		Capital	20,83,000	..	20,83,000
101	Survey of India .	Revenue	3,26,67,000	..	3,26,67,000
102	Grants to Council of Scientific and Industrial Research .	Revenue	7,68,92,000	..	7,68,92,000
103	Department of Space .	Revenue	7,37,91,000	..	7,37,91,000
		Capital	5,24,07,000	..	5,24,07,000
104	Lok Sabha .	Revenue	83,04,000	*20,000*	83,24,000
105	Rajya Sabha .	Revenue	33,11,000	*16,000*	33,27,000
106	Department of Parliamentary Affairs .	Revenue	4,44,000	..	4,44,000
	CHARGED—*Staff, Household and Allowances of the President* .	Revenue	..	*11,68,000*	11,68,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
107	Secretariat of the Vice-President . . Revenue	94,000	..	94,000
	CHARGED—*Union Public Service Commission* . Revenue	..	*33,60,000*	33,60,000
	TOTAL .	3541,69,57,000	*3850,73,21,000*	7392,42,78,000

THE APPROPRIATION (RAILWAYS) ACT, 1978

No. 4 OF 1978

[28*th March*, 1978.]

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 1978-79 for the purposes of Railways.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) Act, 1978. 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 three thousand eight hundred and eighty-eight crores, forty lakhs and twenty-nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1978-79, in respect of the services relating to railways specified in column 2 of the Schedule. Issue of Rs. 3888, 40,29,000 out of the Consolidated Fund of India for the financial year 1978-79.

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. Appropriation.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	2,53,53,000	..	2,53,53,000
2	Miscellaneous Expenditure .	12,65,27,000	*3,00,000*	12,68,27,000
3	Payments to Worked Lines and Others	70,25,000	..	70,25,000
4	Working Expenses—Administration	160,85,35,000	*3,09,000*	160,88,44,000
5	Working Expenses—Repairs and Maintenance . . .	703,96,12,000	*10,48,000*	704,06,60,000
6	Working Expenses—Operating Staff	359,71,86,000	*51,67,000*	360,23,53,000
7	Working Expenses—Operation (Fuel)	329,69,90,000	*43,68,000*	330,13,58,000
8	Working Expenses—Operation other than Staff and Fuel .	110,79,62,000	*2,49,44,000*	113,29,06,000
9	Working Expenses—Miscellaneous Expenses . . .	65,51,82,000	*8,68,000*	65,60,50,000
10	Working Expenses—Staff Welfare	59,00,81,000	*1,35,000*	59,02,16,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund	145,00,00,000	..	145,00,00,000
11A	Working Expenses—Appropriation to Pension Fund .	50,00,00,000	..	50,00,00,000
12	Dividend to General Revenues and Contribution for Grants to States in lieu of Passenger Fare Tax . . .	232,82,40,000	..	232,82,40,000
13	Open Line Works (Revenue)	10,29,73,000	*50,000*	10,30,23,000
14	Construction of New Lines—Capital and Depreciation Reserve Fund . . .	65,70,17,000	*15,00,000*	65,85,17,000
15	Open Line Works—Capital, Depreciation Reserve Fund and Development Fund .	1298,98,89,000	*50,00,000*	1299,48,89,000
16	Pensionary Charges—Pension Fund	46,23,16,000	..	46,23,16,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
17	Repayment of Loans from General Revenues and Interest thereon—Development Fund	8,54,22,000	..	8,54,22,000
18	Appropriation to Development Fund	31,78,23,000	..	31,78,23,000
19	Appropriation to Revenue Reserve Fund . . .	33,64,37,000	..	33,64,37,000
20	Payments towards Amortisation of over capitalisation, Repayment of Loans from General Revenues and Interest thereon—Revenue Reserve Fund	136,24,77,000	..	136,24,77,000
21	Appropriation to Accident Compensation, Safety and Passenger Amenities Fund . .	10,18,35,000	..	10,18,35,000
22	Accident Compensation, Safety and Passenger Amenities Fund	8,05,58,000	*1,09,00,000*	9,14,58,000
	TOTAL . . .	3882,94,40,000	*5,45,89,000*	3888,40,29,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1978

No. 5 OF 1978

[28*th March*, 1978.]

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 1977-78 for the purposes of Railways.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (Railways) No. 2 Act, 1978.

Issue of Rs. 73,67, 20,000 out of the Consolidated Fund of India for the financial year 1977-78.

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 seventy-three crores, sixty-seven lakhs and twenty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1977-78, 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)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4	Working Expenses—Administration .	..	65,000	65,000
8	Working Expenses—Operation other than Staff and Fuel . .	..	21,19,000	21,19,000
9	Working Expenses—Miscellaneous Expenses	5,10,28,000	..	5,10,28,000
12	Dividend to General Revenues and Contribution for Grants to States in lieu of Passenger Fare tax .	1,74,54,000	..	1,74,54,000
13	Open Line Works (Revenue) . .	1,23,00,000	..	1,23,00,000
16	Pensionary Charges—Pension Fund	7,92,18,000	2,000	7,92,20,000
18	Appropriation to Development Fund .	7,52,72,000	..	7,52,72,000
19	Appropriation to Revenue Reserve Fund	49,29,35,000	..	49,29,35,000
21	Appropriation to Accident Compensation, Safety and Passenger Amenities Fund	63,27,000	..	63,27,000
	TOTAL . . .	73,45,34,000	21,86,000	73,67,20,000

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1978

No. 6 OF 1978

[28th March, 1978.]

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, 1976, in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1978.

Issue of Rs. 85,78, 59,154 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1976.

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 eighty-five crores, seventy-eight lakhs, fifty-nine thousand, one hundred and fifty-four 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, 1976, in excess of the amounts granted for those services and for that year.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1976.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums aggregating to		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	Payments to Worked Lines and Others	2,22,645	..	2,22,645
5	Working Expenses—Repairs and Maintenance	13,80,57,453	2,56,877	13,83,14,330
6	Working Expenses—Operating Staff	1,71,17,592	..	1,71,17,592
7	Working Expenses—Operation (Fuel)	6,51,70,848	..	6,51,70,848
8	Working Expenses—Operation other than Staff and Fuel . . .	9,50,45,802	..	9,50,45,802
9	Working Expenses—Miscellaneous Expenses	3,11,54,112	..	3,11,54,112
10	Working Expenses—Staff Welfare .	54,68,576	..	54,68,576
13	Open Line Works (Revenue) . .	12,02,120	..	12,02,120
15	Open Line Works—Capital, Depreciation Reserve Fund and Development Fund	46,03,71,860	..	46,03,71,860
16	Pensionary Charges—Pension Fund	4,22,16,919	..	4,22,16,919
17	Repayment of Loans from General Revenues and interest thereon—Development Fund . . .	2,66,136	..	2,66,136
21	Appropriation to Accident Compensation, Safety and Passenger Amenities Fund	13,08,214	..	13,08,214
	TOTAL . .	85,76,02,277	2,56,877	85,78,59,154

THE APPROPRIATION ACT, 1978

No. 7 OF 1978

[29th March, 1978.]

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, 1976, in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation Act, 1978.

Issue of Rs. 115,75, 47,783 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1976.

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 one hundred and fifteen crores, seventy-five lakhs, forty-seven thousand, seven hundred and eighty-three rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1976, in excess of the amounts granted for those services and for that year.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1976.

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
			Excess		
No. of Vote	Services and purposes		Voted portion	Charged portion	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture	Revenue	4,67,739	..	4,67,739
9	Payments to Indian Council of Agricultural Research	Revenue	536	..	536
17	Capital Outlay on Posts and Telegraphs . .	Capital	11,94,67,139	..	11,94,67,139
19	Defence Services—Army .	Revenue	61,26,20,550	..	61,26,20,550
20	Defence Services—Navy .	Revenue	..	*1,078*	1,078
21	Defence Services—Air Force	Revenue	7,42,26,534	..	7,42,26,534
34	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax . .	Revenue	12,68,390	..	12,68,390
37	Currency, Coinage and Mint . . .	Revenue	15,23,530	..	15,23,530
38	Pensions . . .	Revenue	1,31,86,429	..	1,31,86,429
39	Opium and Alkaloid Factories . . .	Revenue	31,42,075	..	31,42,075
	Interest Payments	Revenue	..	*7,33,85,152*	7,33,85,152
43	Ministry of Health and Family Planning . .	Revenue	14,979	..	14,979
44	Medical and Public Health	Revenue	..	*405*	405
		Capital	6,20,44,562	..	6,20,44,562
46	Ministry of Home Affairs .	Revenue	8,08,667	..	8,08,667
48	Department of Personnel and Administrative Reforms . .	Revenue	14,75,713	..	14,75,713
49	Police	Revenue	5,84,00,521	..	5,84,00,521
52	Delhi	Revenue	1,06,76,567	..	1,06,76,567
		Capital	7,10,33,475	..	7,10,33,475
53	Chandigarh . . .	Capital	43,854	*9,00,001*	9,43,855
54	Andaman and Nicobar Islands . . .	Revenue	1,48,08,096	..	1,48,08,096
56	Dadra and Nagar Haveli .	Revenue	16,909	..	16,909

1	2		3		
No. of Vote	Services and purposes		Excess		
			Voted portion	Charged portion	Total
			Rs.	Rs.	Rs.
57	Lakshadweep . .	Revenue	6,13,700	..	6,13,700
62	Ministry of Information and Broadcasting . .	Revenue	68,326	..	68,326
66	Labour and Employment .	Revenue	81,52,887	..	81,52,887
76	Roads . .	Revenue	2,87,053	..	2,87,053
		Capital	66,32,412	..	66,32,412
77	Ports, Lighthouses and Shipping . .	Capital	..	4,69,701	4,69,701
81	Mines and Minerals . . .	Revenue	1,25,09,217	..	1,25,09,217
89	Ministry of Works and Housing . .	Revenue	2,27,468	..	2,27,468
90	Public Works . . .	Capital	..	1,53,446	1,53,446
92	Housing and Urban Development . .	Revenue	14,43,491	..	14,43,491
96	Nuclear Power Schemes .	Capital	29,34,262	..	29,34,262
101	Survey of India . .	Revenue	45,42,919	..	45,42,919
	TOTAL		108,26,38,000	7,49,09,783	115,75,47,783

THE APPROPRIATION (No. 2) ACT, 1978

No. 8 OF 1978

[29th *March*, 1978.]

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 1977-78.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 2) Act, 1978. **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 three thousand seven hundred and sixty-three crores, eighty-six lakhs and seventy-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1977-78 in respect of the services specified in column 2 of the Schedule. **Issue of Rs. 3763,86,77,000 out of the Consolidated Fund of India for the year 1977-78.**

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. **Appropriation.**

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
			Sums not exceeding		
No. of Vote	Services and purposes		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
2	Agriculture . .	Capital	115,35,24,000	20,000	115,35,44,000
4	Animal Husbandry and Dairy Development . .	Revenue	1,000	37,000	38,000
		Capital	2,000	1,13,18,000	1,13,20,000
6	Department of Food .	Revenue	17,96,70,000	..	17,96,70,000
		Capital	..	2,00,000	2,00,000
7	Department of Rural Development . .	Revenue	7,87,42,000	..	7,87,42,000
		Capital	11,93,000	..	11,93,000
9	Payments to Indian Council of Agricultural Research .	Revenue	1,66,84,000	..	1,66,84,000
10	Department of Irrigation .	Capital	..	2,32,60,000	2,32,60,000
12	Chemicals and Fertilisers Industries . .	Capital	4,000	..	4,000
14	Civil Supplies and Co-operation . . .	Revenue	1,87,69,000	..	1,87,69,000
15	Ministry of Commerce .	Revenue	3,00,000	..	3,00,000
16	Foreign Trade and Export Production . .	Revenue	32,00,01,000	..	32,00,01,000
		Capital	126,36,27,000	..	126,36,27,000
21	Capital Outlay on Posts and Telegraphs . .	Capital	1,000	..	1,000
22	Ministry of Defence .	Revenue	11,05,09,000	..	11,05,09,000
		Capital	..	24,41,000	24,41,000
23	Defence Services—Army .	Revenue	9,54,26,000	4,20,000	9,58,46,000
26	Defence Services—Pensions .	Revenue	24,99,57,000	45,000	25,00,02,000
27	Capital Outlay on Defence Services . . .	Capital	..	5,00,000	5,00,000
30	Department of Social Welfare	Revenue	1,07,00,000	..	1,07,00,000
32	Power Development .	Revenue	1,000	..	1,000
33	Coal and Lignite . .	Capital	40,92,33,000	..	40,92,33,000
38	Currency, Coinage and Mint	Revenue	5,42,15,000	..	5,42,15,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
40	Transfers to State and Union Territory Governments .	Revenue	16,93,07,000	*21,70,95,000*	38,64,02,000
41	Other Expenditure of the Ministry of Finance .	Revenue	24,97,00,000	..	24,97,00,000
42	Loans to Government Servants, etc.	Capital	17,74,97,000	..	17,74,97,000
	Repayment of Debt . .	Capital	..	*2986,41,44,000*	2986,41,44,000
43	Department of Revenue and Banking	Capital	16,05,07,000	..	16,05,07,000
46	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax	Revenue	2,25,24,000	..	2,25,24,000
49	Medical and Public Health .	Revenue	11,42,01,000	..	11,42,01,000
		Capital	3,33,92,000	..	3,33,92,000
53	Department of Personnel and Administrative Reforms .	Revenue	34,65,000	..	34,65,000
		Capital	1,75,000	..	1,75,000
54	Police	Revenue	1,000	*51,000*	52,000
56	Other Expenditure of the Ministry of Home Affairs .	Revenue	3,000	..	3,000
		Capital	3,63,39,000	*1,40,000*	3,64,79,000
57	Delhi	Revenue	1,67,53,000	*1,80,000*	1,69,33,000
		Capital	20,96,000	..	20,96,000
58	Chandigarh . . .	Revenue	37,06,000	*5,63,000*	42,69,000
59	Andaman and Nicobar Islands	Revenue	42,48,000	*25,000*	42,73,000
		Capital	1,76,000	..	1,76,000
60	Dadra and Nagar Haveli .	Revenue	24,03,000	..	24,03,000
61	Lakshadweep . . .	Revenue	6,59,000	..	6,59,000
63	Industries	Revenue	3,00,00,000	..	3,00,00,000
		Capital	4,000	..	4,000
64	Village and Small Industries	Revenue	82,64,000	..	82,64,000
		Capital	1,000	*2,00,00,000*	2,00,01,000
66	Information and Publicity .	Revenue	2,000	..	2,000
67	Broadcasting . . .	Capital	..	*26,000*	26,000
69	Labour and Employment .	Revenue	2,000	..	2,000
73	Petroleum and Petro-Chemicals Industries . .	Revenue	1,33,35,000	..	1,33,35,000
81	Roads	Revenue	7,00,57,000	*1,51,000*	7,02,08,000
		Capital	3,28,99,000	..	3,28,99,000
82	Ports, Lighthouses and Shipping . . .	Revenue	3,22,45,000	..	3,22,45,000
		Capital	1,000	*9,71,000*	9,72,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
83	Road and Inland Water Transport . .	Capital	5,35,52,000	..	5,35,52,000
84	Department of Steel . .	Capital	220,00,01,000	..	220,00,01,000
86	Mines and Minerals . .	Revenue	3,07,37,000	..	3,07,37,000
89	Department of Rehabilitation	Capital	30,00,000	..	30,00,000
92	Aviation	Capital	2,000	..	2,000
95	Public Works . . .	Revenue	5,36,42,000	*21,000*	5,36,63,000
97	Housing and Urban Development	Revenue	90,74,000	*38,000*	91,12,000
101	Nuclear Power Schemes .	Capital	..	*5,00,000*	5,00,000
104	Department of Electronics .	Revenue	1,000	..	1,000
		Capital	1,000	..	1,000
	TOTAL		749,65,31,000	*3014,21,46,000*	3763,86,77,000

THE MIZORAM APPROPRIATION (VOTE ON ACCOUNT) ACT, 1978

No. 9 OF 1978

[29th March, 1978.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the Union territory of Mizoram for the services of a part of the financial year 1978-79.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Mizoram Appropriation (Vote on Account) Act, 1978. Short title.

2. From and out of the Consolidated Fund of the Union territory of Mizoram there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of twenty-three crores, forty-two lakhs and eighty-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1978-79. Withdrawal of Rs. 23,42,84,000 from and out of the Consolidated Fund of the Union territory of Mizoram for the financial year 1978-79.

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

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Legislative Assembly	Revenue	5,02,000	23,000	5,25,000
2	Administrator	Revenue	35,000	4,58,000	4,93,000
3	Council of Ministers	Revenue	2,12,000	..	2,12,000
4	Administration of Justice	Revenue	4,00,000	..	4,00,000
5	Elections	Revenue	3,19,000	..	3,19,000
6	Revenue	Revenue	14,37,000	..	14,37,000
7	Taxes on Vehicles	Revenue	62,000	..	62,000
8	Secretariat	Revenue	26,85,000	..	26,85,000
9	District Administration	Revenue	35,46,000	..	35,46,000
10	Treasury and Accounts Administration	Revenue	5,06,000	..	5,06,000
11	Police	Revenue	1,10,42,000	..	1,10,42,000
12	Jails	Revenue	8,72,000	..	8,72,000
13	Supplies and Disposals	Revenue	15,13,000	..	15,13,000
14	Stationery and Printing	Revenue	2,46,000	..	2,46,000
15	Public Works	Revenue	72,77,000	..	72,77,000
		Capital	30,69,000	..	30,69,000
16	Fire Protection and Control	Revenue	4,39,000	..	4,39,000
17	Other Administrative services	Revenue	33,98,000	..	33,98,000
18	Retirement Benefits	Revenue	1,48,000	..	1,48,000
19	Education	Revenue	2,16,43,000	..	2,16,43,000
20	Medical	Revenue	62,35,000	..	62,35,000
21	Public Health	Revenue	55,37,000	..	55,37,000
		Capital	31,47,000	..	31,47,000
22	Housing	Revenue	17,29,000	..	17,29,000
		Capital	33,33,000	..	33,33,000
23	Urban Development	Revenue	4,17,000	..	4,17,000
24	Information and Publicity	Revenue	7,71,000	..	7,71,000

1	2		3		
No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
25	Labour and Employment	Revenue	4,22,000	..	4,22,000
26	Social Security and Welfare . . .	Revenue	47,47,000	..	47,47,000
		Capital	8,12,000	..	8,12,000
27	Relief on account of Natural Calamities .	Revenue	56,08,000	..	56,08,000
28	Co-operation . .	Revenue	8,95,000	..	8,95,000
		Capital	26,27,000	..	26,27,000
29	Special and Backward Areas . . .	Revenue	67,17,000	..	67,17,000
		Capital	7,46,000	..	7,46,000
30	Miscellaneous Economic Services . . .	Revenue	5,25,000	..	5,25,000
31	Agriculture . . .	Revenue	1,66,86,000	..	1,66,86,000
		Capital	12,58,000	..	12,58,000
32	Food and Nutrition .	Revenue	15,82,000	..	15,82,000
		Capital	2,66,62,000	..	2,66,62,000
33	Animal Husbandry .	Revenue	37,88,000	..	37,88,000
		Capital	2,08,000	..	2,08,000
34	Fisheries . . .	Revenue	4,80,000	..	4,80,000
35	Forests	Revenue	33,42,000	..	33,42,000
36	Community Development	Revenue	41,93,000	..	41,93,000
37	Industries . . .	Revenue	37,85,000	..	37,85,000
		Capital	9,17,000	..	9,17,000
38	Electricity . . .	Revenue	31,35,000	..	31,35,000
		Capital	62,50,000	..	62,50,000
39	Roads and Bridges .	Revenue	3,34,86,000	..	3,34,86,000
		Capital	1,37,21,000	..	1,37,21,000
40	Road and Water Transport . . .	Revenue	22,43,000	..	22,43,000
		Capital	6,25,000	..	6,25,000
41	Loans to Government Servants . .	Capital	18,16,000	..	18,16,000
	Public Debt . .	Revenue	..	36,58,000	36,58,000
		Capital	..	23,49,000	23,49,000
	TOTAL		22,77,96,000	64,88,000	23,42,84,000

THE MIZORAM APPROPRIATION ACT, 1978

No. 10 OF 1978

[29th *March*, 1978.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Union territory of Mizoram for the services of the financial year 1977-78.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Mizoram Appropriation Act, 1978.

Issue of Rs. 5,43,78,000 from and out of the Consolidated Fund of the Union territory of Mizoram for the financial year 1977-78.

2. From and out of the Consolidated Fund of the Union territory of Mizoram 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 five crores, forty-three lakhs and seventy-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1977-78 in respect of the services specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the Union territory of Mizoram 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	2		3		
Demand Number	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
4	Administration of Justice	Revenue	3,99,000	..	3,99,000
5	Elections . .	Revenue	1,72,000	..	1,72,000
8	Stamps & Registration .	Revenue	4,000	..	4,000
11	Taxes on Vehicles . .	Revenue	30,000	..	30,000
12	Interest payments . .	Revenue	..	18,05,000	18,05,000
13	Secretariat General Services, Secretariat Social & Community Services, Secretariat Economic Services . . .	Revenue	6,00,000	..	6,00,000
14	District Administration .	Revenue	11,50,000	..	11,50,000
16	Police	Revenue	12,00,000	..	12,00,000
17	Jails	Revenue	5,42,000	..	5,42,000
19	Stationery & Printing .	Revenue	30,000	..	30,000
20	Public Works . .	Revenue	2,00,000	..	2,00,000
		Capital	4,00,000	..	4,00,000
21	Fire Protection & Control	Revenue	65,000	..	65,000
22	Other Administrative Services . . .	Revenue	16,76,000	..	16,76,000
23	Pension & Other Retirement benefit . .	Revenue	2,44,000	..	2,44,000
24	Education, Arts & Culture	Revenue	86,10,000	..	86,10,000
25	Medical & Family Planning . . .	Revenue	58,000	..	58,000
26	Public Health & Water Supply . . .	Revenue	26,27,000	..	26,27,000
31	Social Security and Welfare . . .	Revenue	45,000	..	45,000
32	Relief on Account of Natural Calamities .	Revenue	68,04,000	..	68,04,000
34	Co-operation . . .	Capital	34,50,000	..	34,50,000
35	Special & Backward Areas . . .	Revenue	1,14,000	..	1,14,000
		Capital	13,37,000	..	13,37,000

1	2		3		
Demand Number	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
36	Other Economic Services	Revenue	1,90,000	..	1,90,000
37	Agriculture & Minor Irrigation . . .	Revenue	56,22,000	..	56,22,000
		Capital	25,00,000	..	25,00,000
40	Animal Husbandry, Dairy & Milk Supply . .	Revenue	5,39,000	..	5,39,000
42	Forests	Revenue	2,00,000	..	2,00,000
43	Community Development	Revenue	43,88,000	..	43,88,000
44	Industries including Village & Small Industries .	Revenue	3,49,000	..	3,49,000
		Capital	6,00,000	..	6,00,000
46	Power Projects . .	Revenue	5,00,000	..	5,00,000
47	Roads & Bridges . .	Revenue	63,68,000	..	63,68,000
		Capital	5,00,000	..	5,00,000
51	Loans to Government Servants . . .	Capital	5,96,000	..	5,96,000
52	Aid materials & Equipments . .	Revenue	4,64,000	..	4,64,000
	TOTAL .		5,25,73,000	18,05,000	5,43,78,000

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THE HIGH DENOMINATION BANK NOTES (DEMONETISATION) ACT, 1978

No. 11 OF 1978

[30*th March*, 1978.]

An Act to provide in the public interest for the demonetisation of certain high denomination bank notes and for matters connected therewith or incidental thereto.

WHEREAS the availability of high denomination bank notes facilitates the illicit transfer of money for financing transactions which are harmful to the national economy or which are for illegal purposes and it is therefore necessary in the public interest to demonetise high denomination bank notes;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the High Denomination Bank Notes (Demonetisation) Act, 1978.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 16th day of January, 1978.

Definitions.

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

(a) "bank" means—

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(*ii*) the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(*iii*) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(*iv*) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*v*) a regional rural bank established under sub-section (*1*) of section 3 of the Regional Rural Banks Act, 1976; 21 of 1976.

(*vi*) a co-operative bank as defined in section 2 of the Reserve Bank of India Act, 1934, 2 of 1934.

and includes every branch thereof;

(*b*) "bank notes" means the bank notes issued by the Reserve Bank of India under section 22 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*c*) "distinctive number" in relation to a high denomination bank note means the number including the alphabetical and numerical prefixes appearing on the face of the note;

(*d*) "high denomination bank note" means a bank note of the denominational value of one thousand rupees, five thousand rupees or ten thousand rupees, issued by the Reserve Bank;

(*e*) "public sector bank" means a bank referred to in sub-clause (*ii*), (*iii*) or (*iv*) of clause (*a*);

(*f*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; 2 of 1934.

(*g*) "scheduled bank" means a public sector bank or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; 2 of 1934.

(*h*) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955. 23 of 1955.

High denomination bank notes to cease to be legal tender.

3. On the expiry of the 16th day of January, 1978, all high denomination bank notes shall, notwithstanding anything contained in section 26 of the Reserve Bank of India Act, 1934, cease to be legal tender in payment or on account at any place. 2 of 1934.

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4. Save as provided by or under this Act, no person shall, after the 16th day of January, 1978, transfer to the possession of another person or receive into his possession from another person any high denomination bank note.

Prohibition of transfer and receipt of high denomination bank notes.

5. (*1*) Every bank and Government treasury shall prepare and send to the Reserve Bank in the manner provided in this section a return showing separately under each denominational value the total value of high denomination bank notes of that value held by it at the close of business on the 16th day of January, 1978 and the distinctive numbers of high denomination bank notes of that value:

Declaration of high denomination bank notes by banks and Government treasuries.

Provided that a bank or a Government treasury in which the currency chest of the Issue Department of the Reserve Bank has been established shall also submit a separate return showing separately under each denominational value the total value of high denomination bank notes held in such currency chest at the close of business on the 16th day of January, 1978 and the distinctive numbers of high denomination bank notes of that value.

(*2*) Every such return shall be prepared and presented as provided in sub-section (*3*) in triplicate and shall be signed by the Manager of the bank or other person in charge of the bank or the Government treasury.

(*3*) Every return under sub-section (*1*) shall be presented for forwarding to the Reserve Bank to the Manager of the sub-office, office or branch of the Reserve Bank at the places specified under sub-section (*2*) of section 7, or to the District Magistrate, or to the Sub-divisional Magistrate or, if such Manager or Magistrate is not available, to the senior-most Revenue or Police Officer available not later than 3.00 P.M. on the 17th day of January, 1978:

Provided that if it is not feasible to present the return to any such person as aforesaid, it may be presented by handing two copies thereof not later than 3.00 P.M. on the 17th day of January, 1978 to a telegraph office, one copy for despatch by express telegram to the Reserve Bank at Bombay at the expense of the bank or the Government treasury, as the case may be, and the other copy for return to the person presenting it in the manner provided in sub-section (*4*), and by despatching the third copy required by sub-section (*2*) by registered post on the same day to the Reserve Bank at Bombay.

(*4*) The officer to whom the return is presented shall give back to the person presenting it one copy thereof under his signature and seal of office in acknowledgement of receipt on which shall also be recorded the time and date of receipt, and such officer shall without delay forward one copy of the return to the Reserve Bank at Bombay.

(*5*) The Manager or other person in charge of every bank or Government treasury shall, immediately after the preparation of the returns required to be submitted under this section, cause the high denomination bank notes mentioned therein to be kept in a separate receptacle and seal the same with his seal and of the officers having custody of such receptacle.

Exchange of high denomination bank notes held by banks and Government treasuries.

6. (1) A bank other than a public sector bank may obtain from the Reserve Bank or a public sector bank an equivalent amount in exchange for the high denomination bank notes declared by it in the return referred to in section 5 by credit to an account maintained with the Reserve Bank or a public sector bank or in bank notes.

(2) A public sector bank may obtain from the Reserve Bank an equivalent amount in exchange for the high denomination bank notes declared by it in the return referred to in section 5 or the high denomination bank notes received by it in exchange under sub-section (1) by credit to an account with the Reserve Bank or in bank notes.

(3) A Government treasury may obtain from the Reserve Bank an equivalent amount in exchange for the high denomination bank notes declared by it in the return referred to in section 5 in bank notes or by credit to Government account.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), where the return referred to in section 5 is presented in the manner provided in the proviso to sub-section (3) of that section, the exchange referred to in this section may be effected only by the Reserve Bank at Bombay.

(5) Every application for the exchange of high denomination bank notes under this section shall be accompanied by the copy of the return received under sub-section (4) of section 5 which contains the distinctive numbers of such bank notes.

Exchange of high denomination bank notes held by other persons.

7. (1) Notwithstanding anything to the contrary contained in the Reserve Bank of India Act, 1934, any high denomination bank note owned by a person other than a bank or Government treasury may be exchanged after the 16th day of January, 1978, only on tender of the note— 2 of 1934.

(a) where the high denomination bank note is owned by an individual, by the individual himself; or where the individual is absent from India, by the individual concerned or some person duly authorised by him in this behalf; or 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) where the high denomination bank note is owned by 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 his family;

(c) where the high denomination bank note is owned by a company, by the managing director thereof, or, where for any unavoidable reason such managing director is not able to tender the note, or where there is no managing director, by any director thereof;

(d) where the high denomination bank note forms part of the assets of a firm, by the managing partner thereof, or, where for any unavoidable reason such partner is not able to tender the note, or where there is no managing partner as such, by any partner thereof not being a minor;

(e) where the high denomination bank note is owned by any other association of persons, by any member of the association or the principal officer thereof; and

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(*f*) where the high denomination bank note is owned by any other person, by that person or by some person competent to act on his behalf;

and within the time and in the manner provided in this section.

(2) Every person desiring to tender for exchange a high denomination bank note under this section shall prepare in the form set out in the Schedule three copies of a declaration signed by him giving in full the particulars required by that form and shall, not later than the 19th day of January, 1978, deliver such copies in person together with the high denomination bank notes he desires to exchange—

(*a*) to either of the offices of the Reserve Bank at Bombay or to the sub-office, office or branch, as the case may be, of that bank at Ahmedabad, Bangalore, Bhubaneshwar, Calcutta, Gauhati, Hyderabad, Jaipur, Kanpur, Madras, Nagpur, New Delhi and Patna; or

(*b*) to the main office or branch of the State Bank at the headquarters of a district; or

(*c*) to any other office of a public sector bank notified in this behalf by the Reserve Bank:

Provided that if such person resides in a place not within convenient reach of any such office or branch, or if, by reason of age, infirmity or illness he is unable to attend thereat, he may forward the high denomination bank notes he desires to exchange together with three copies of the declaration in respect thereof by insured post to the Reserve Bank at Bombay not later than the 19th day of January, 1978.

(3) Every declaration under this section shall, for the purpose of identifying the person making it, be attested by the manager or other person in charge of the bank, if any, with which he maintains an account, or by a salaried Magistrate or a Justice of the Peace or a police officer not below the rank of an Inspector of Police.

(4) Unless it appears that the declaration has not been complete in all material particulars, the Reserve Bank, the State Bank or any bank notified under clause (*c*) of sub-section (2), as the case may be, to which an application for exchange of high denomination bank notes is made under this section, shall pay the exchange value of the said notes for credit to a properly introduced account of the owner or the declarant, as the case may be, with any scheduled bank:

Provided that if the owner or declarant, as the case may be, does not have a bank account, the exchange value of the said notes shall be paid only on proper identification and until payment is so made, the amount shall remain in the custody of the Reserve Bank or the bank, as the case may be, to which the high denomination bank notes were tendered.

(5) Where it appears that the declaration has not been completed in all material particulars, the Reserve Bank, the State Bank or the notified bank, as the case may be, to which such application as aforesaid is made shall, unless the declarant is able to supply the omission without delay, refuse to accept and pay for the bank notes to which the declaration relates, and where it does so refuse, shall return one copy of the declaration

to the declarant after entering therein the date on which it is presented and shall refer the matter to the Central Government to which it shall forward a copy of the declaration with a brief statement of the reasons for refusing to pay for the bank notes.

(*6*) The Central Government may require any declarant referred to in sub-section (*5*) to amplify his declaration to such extent and in respect of such particulars as it thinks fit and may, unless the declarant is able to fully comply with such requirement, refuse, for reasons to be recorded in writing, to sanction the exchange of the high denomination bank notes to which the declaration relates.

(*7*) The Central Government or any person or authority authorised by it in this behalf may, by order in writing and for reasons to be recorded therein, extend in any case or class of cases the period during which high denomination bank notes may be tendered for exchange under this section.

Exchange of notes after the time limit specified in section 7.

8. (*1*) Notwithstanding anything contained in section 7, any person who fails to apply for exchange of any high denomination bank notes within the time provided in that section may tender the notes together with the declaration required under that section to the Reserve Bank at any of the places specified in clause (*a*) of sub-section (*2*) of that section, not later than the 24th day of January, 1978 together with a statement explaining the reasons for his failure to apply within the said time limit:

Provided that if such person resides in a place not within convenient reach of the sub-office, office or branch of the Reserve Bank at any of the said places or if, by reason of age, infirmity or illness, he is unable to attend thereat, he may forward the high denomination bank notes he desires to exchange together with three copies of the declaration required under section 7 by insured post to the Reserve Bank at Bombay not later than the 24th day of January, 1978, along with a statement explaining the reasons for his failure to apply within the time specified in section 7.

(*2*) The Reserve Bank may, if satisfied after making such inquiries as it may consider necessary that the reasons for the failure to submit the notes for exchange within the time provided in section 7 are genuine, pay the value of the notes in the manner specified in sub-section (*4*) of that section.

(*3*) Any person aggrieved by the refusal of the Reserve Bank to pay the value of the notes under sub-section (*2*) may prefer an appeal to the Central Government within fourteen days of the communication of such refusal to him.

Closing of banks and Government treasuries.

9. (*1*) All banks and Government treasuries shall be closed on the 17th day of January, 1978 for the transaction of all business except the preparation and presentation or, as the case may be, receipt of the returns referred to in section 5.

(*2*) Subject to the provisions of sub-section (*1*), the 17th day of January, 1978 shall, for the purposes of the Negotiable Instruments Act, 1881, be deemed to be a public holiday notified under that Act. 26 of 1881.

Penalties.

10. (*1*) If any bank fails to prepare and present within the time and in the manner provided by section 5 any return referred to in that section, or presents any return under that section which is false in any

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material particular, the manager or other person in charge of the bank shall, unless he proves that the failure took place, or the false return was presented, without his knowledge or that he exercised all due diligence to prevent the same, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Whoever knowingly makes in any declaration under section 7 any statement which is false or only partially true or which he does not believe to be true or contravenes any provision of this Act or the rules made thereunder shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) An officer of a scheduled bank who makes payment out of the amount, being the exchange value of a high denomination bank note credited under sub-section (4) of section 7 to an account maintained with such bank shall, unless such account is an account which has been opened after proper introduction, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Special provisions relating to offences.

11. (1) No prosecution for an offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

(2) Notwithstanding anything in section 29 of the Code of Criminal Procedure, 1973, the court of a Magistrate of the first class or the court of a Metropolitan Magistrate trying an offence punishable under this Act may impose a fine exceeding five thousand rupees.

2 of 1974.

Protection of action taken in good faith.

12. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or against the Reserve Bank or any public sector bank or any officer of such bank for anything done or intended to be done in good faith under this Act.

Removal of difficulties.

13. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

14. (1) The Central Government may make rules for giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the custody and disposal of high denomination bank notes tendered for exchange under this Act and of the declarations in respect thereof;

(b) the time within which applications referred to in sub-section (5) of section 6 may be made; and

(c) the time within which and the manner in which the State Bank and public sector banks notified under clause (c) of sub-section (2) of section 7 may claim reimbursement from the Reserve Bank of payments made by them in respect of high denomination bank notes accepted by them under that section.

(3) 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 immediately following the session 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.

Repeal and saving.

15. (1) The High Denomination Bank Notes (Demonetisation) Ordinance, 1978 is hereby repealed. 1 of 1978.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[*See* section 7(2)]

FORM OF DECLARATION

(To be filed in triplicate)

1. Name of the owner of the bank notes (In block letters)
2. Address: Office
   Residence
3. Status, *i.e.*, whether individual, Hindu undivided family, company, firm, etc.
4. (a) Whether assessed to income-tax;
   (b) If so, name of the Income-Tax Circle/Ward/District where last assessed;
   (c) Permanent Account Number.
5. If engaged in business, profession or vocation, name in which such business is carried on.
6. Principal place of business, profession or vocation, and location and style of each branch.
7. In the case of a firm, name and address of each partner.
8. In the case of partner in a firm, name and address of each firm or firms in which he is a partner.
9. In the case of a salaried person, amount of salary per annum.
10. In the case of a Government employee, Government Department and post held.
11. In the case of a retired Government employee, last post held; Government Department under which such post was held and date of retirement.
12. In the case of a retired employee of a non-Government employer, particulars of last post held.
13. In the case of any other person, particulars of profession or vocation or, as the case may be, former profession or vocation.
14. Particulars of high denomination bank notes tendered.

Denomination	Number of Notes	Distinctive Numbers*	Total value
Rs. 1000			
Rs. 5000			
Rs. 10000			
			Rs.
			Rupees (in words)

*Distinctive numbers of bank notes tendered should be furnished indicating alphabetical and numerical prefixes of the notes. Attach a statement if space is not adequate.

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15. Reasons for keeping the amount in cash in notes of such high denominations
16. When and from what source did the bank notes come into possession?
17. If any of the notes tendered represent borrowings, the name(s) and address(es) of the persons from whom borrowed and the dates on which borrowed.
18. Manner in which payment of value of the bank notes is desired; *i.e.*, in cash or payment to bank, etc.
19. If payment is to be made into a bank account, full details of the bank account.
20. Has any other declaration been made in respect of other bank notes of the owner? If so, state full particulars.
21. If the declarant is not the owner of the bank notes, capacity in which declaration is signed.

I,————————, son/daughter/wife of ————————hereby solemnly declare
(name in block letters (name of father/husband)

that the particulars furnished above are full, true and correct to the best of my knowledge and belief. I further declare that the bank notes tendered herewith belong to me ————

to————————————and are not held *benami*.
name of owner of bank notes

I also solemnly affirm that I have not filed any other declaration under this Act.

————————————

filed another/other declaration(s) as per particulars attached.

I further declare that I am making this declaration in my capacity as————
————————and that I am competent to make this declaration and verify it.
designation, etc.

Place:————————

Date:————————

.....
(Signature of declarant)

I, ————————————hereby testify that I know the declarant and certify that the above declaration was signed in my presence.
(name in block letters)

Place:————————

Date:————————

.....
(Signature and designation)

SEAL

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE PUBLIC WAKFS (EXTENSION OF LIMITATION) (DELHI AMENDMENT) ACT, 1978

NO. 12 OF 1978

[30*th March*, 1978.]

An Act further to amend the Public Wakfs (Extension of Limitation) Act, 1959, as in force in the Union territory of Delhi.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title, extent and Commencement.

1. (*1*) This Act may be called the Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1978.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall be deemed to have effect from the 1st day of January, 1976.

Amendment of section 3 of Act. 29 of ~~1969~~. 1959.

2. In section 3 of the Public Wakfs (Extension of Limitation) Act, 1959, as in force in the Union territory of Delhi, for the words, figures and letters "the 31st day of December, 1975", the words, figures and letters "the 31st day of December, 1980" shall be substituted.

THE HINDUSTAN TRACTORS LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1978

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5. Company to be liable for certain prior liabilities.
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25. Undisbursed or unclaimed amount to be deposited to the general revenue account.
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27. Act to have overriding effect.
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36. Declaration as to the policy of the State.

THE SCHEDULE.

THE HINDUSTAN TRACTORS LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1978

No. 13 OF 1978

[31st *March*, 1978.]

An Act to provide for the acquisition and transfer of the undertakings of Hindustan Tractors Limited, Vishwamitri, Vadodara, for the purpose of ensuring the continuity of production of goods which are vital to meet the needs of the general public and for matters connected therewith or incidental thereto.

WHEREAS Hindustan Tractors Limited, Vishwamitri, Vadodara, are engaged in the manufacture and distribution of tractors which are vital to meet the needs of the general public;

AND WHEREAS the management of the undertakings of Hindustan Tractors Limited was conducted in a manner highly detrimental to the public interest and had suffered heavy losses;

AND WHEREAS the management of the undertakings of Hindustan Tractors Limited was taken over by the Central Government under section 18A of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

AND WHEREAS it is necessary to acquire the undertakings of Hindustan Tractors Limited to ensure the continuance of the production of goods which are vital to meet the needs of the general public;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Hindustan Tractors Limited (Acquisition and Transfer of Undertakings) Act, 1978.

(2) It shall come into force on the 1st day of April, 1978.

Definitions.

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

(*a*) "appointed day" means the 1st day of April, 1978;

(*b*) "Authorised Controller" means the Gujarat Agro Industries Corporation Limited, Ahmedabad, which took over the management of the undertakings of the Company by virtue of the Order of the Government of India in the Ministry of Industrial Development No. S.O. 137(E)/18A/IDRA/73, dated the 12th March, 1973, made under clause (*b*) of sub-section (*1*) of section 18A of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

(c) "bank" means—

(i) the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(iv) any other bank, being a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934; 2 of 1934.

(d) "Commissioner" means the Commissioner of Payments appointed under section 16;

(e) "Company" means Hindustan Tractors Limited, being a company as defined in the Companies Act, 1956, and having its registered office at Vishwamitri, Vadodara; 1 of 1956.

(f) "Custodian" means the Custodian appointed under sub-section (3) of section 10 to take over, or carry on, the management of the undertakings of the Company;

(g) "date of taking over" means the date on which the management of the undertakings of the Company was taken over by the Authorised Controller;

(h) "Government company" has the meaning assigned to it by section 617 of the Companies Act, 1956; 1 of 1956.

(i) "notification" means a notification published in the Official Gazette;

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

(k) "specified date" means such date as the Central Government may, for the purpose of any provision of this Act, by notification, specify and different dates may be specified for different provisions of this Act;

(l) "State Government" means the State Government of Gujarat;

(m) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

Transfer to and vesting in the Central Government of the undertakings of the Company.

3. On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

General effect of vesting.

4. (*1*) The undertakings of the Company referred to in section 3 shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, bank balances, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto and shall be deemed to include the liabilities and obligations specified in sub-section (*2*) of section 5.

(*2*) All property as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal, officer or other authority restricting the use of such property in any manner shall be deemed to have been withdrawn.

(*3*) Where any licence or other instrument in relation to the undertakings of the Company had been granted at any time before the appointed day, to the Company by the Central Government, a State Government or any other authority, the Central Government, the State Government of Gujarat or, as the case may be, the Government company in which the right, title and interest of the Company in relation to its undertakings have vested under section 7, shall, on and from the appointed day, be deemed to be substituted in such licence or other instrument in place of the Company referred to therein as if such licence or other instrument had been granted to it and shall hold such licence or the undertakings or any part thereof specified in such other instrument for the remainder of the period for which the Company would have held such licence or undertakings or any part thereof under such other instrument.

(*4*) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(5) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (4) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 8, and also out of the monies determined under section 9, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of section 5 in respect of the undertakings of the Company instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or the State Government, or where the undertakings of the Company are directed, under section 7, to vest in a Government company, that Government company.

Company to be liable for certain prior liabilities.

5. (1) Every liability, other than the liability specified in sub-section (2), of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or the State Government, or where the undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company.

(2) Any liability arising in respect of—

(*a*) loans advanced by the Central Government or the State Government, or both, to the Company (together with interest due thereon), on or after the date of taking over;

(*b*) loans advanced by a bank to the Company (together with interest due thereon) on or after the date of taking over;

(*c*) loans advanced by the Industrial Reconstruction Corporation of India Limited to the Company (together with interest due thereon) on or after the date of taking over;

(*d*) wages, salaries and other dues of employees of the Company and the dues on account of any deduction made from wages and salaries and other dues of employees, relating to any period commencing on and from the date of taking over;

(*e*) any debt incurred by the Company during any period commencing on and from the date of taking over, not being a debt falling under clause (*a*), clause (*b*), clause (*c*) or clause (*d*) or specified in Category I of the Schedule;

shall, on and from the appointed day, be the liability of the Central Government, or the State Government, or the Government company aforesaid and shall be discharged by the Central Government or the State Government, or the Government company aforesaid as and when

repayment of such loans becomes due or as and when such wages, salaries and other dues and debt become due and payable.

(3) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability, including any liability arising out of any guarantee given by the State Government in respect of any loan or advance given to the Company but not including the liability specified in sub-section (2), of the Company in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or the State Government, or where the undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company;

(b) no award, decree or order of any court, tribunal, officer or other authority in relation to the undertakings of the Company, passed after the appointed day, in respect of any matter, claim or dispute, not being a matter, claim or dispute in relation to any matter referred to in sub-section (2), which arose before that day, shall be enforceable against the Central Government, or the State Government, or where the undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company;

(c) no liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or the State Government, or where the undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company.

Vesting of the undertakings of the Company in the State Government of Gujarat.

6. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government shall, as soon as may be, after the commencement of this Act, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, which have vested in the Central Government under section 3 and such of the liabilities of the Company as are specified in sub-section (2) of section 5, shall, instead of continuing to vest in the Central Government, vest in the State Government of Gujarat either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings and the liabilities of the Company specified in sub-section (2) of section 5 vest in the State Government under sub-section (1), the State Government shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the State Government.

Power of State Government to direct vesting of the undertakings of the Company in a Government company.

7. (1) Notwithstanding anything contained in sections 3, 4 and 6, the State Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings and such of the liabilities of the Company as are specified in sub-section (2) of section 5, which have vested in the Central Government under section 3 and thereafter in the State Government under section 6 shall, instead of continuing to vest in the State Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest, and the liabilities specified in sub-section (2) of section 5, of the Company in relation to its undertakings vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government or the State Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount.

8. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be given by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees one hundred and fifty lakhs.

Payment of further amount.

9. (1) For the deprivation of the Company of the management of its undertakings, there shall be given to the Company by the Central Government an amount calculated at the rate of rupees fifty thousand per annum for the period commencing on the date of taking over and ending on the appointed day.

(2) The amount specified in section 8 and the amount determined under sub-section (1) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given by the Central Government to the Company in addition to the amount specified in section 8.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

Management, etc., of the undertakings of the Company.

10. (*1*) The State Government in which the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings vested under section 6 shall be entitled to exercise all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(*2*) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested under section 3 in the Central Government and, under section 6, in the State Government, shall,—

(*a*) where a direction has been made by the State Government under sub-section (*1*) of section 7, vest in the Government company specified in such direction; or

(*b*) where no such direction has been made by the State Government, vest in one or more Custodians appointed under sub-section (*3*),

and thereupon the Government company so specified or the Custodian so appointed shall be entitled to exercise all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(*3*) The State Government may appoint one or more individuals or a Government company as the Custodian of the undertakings of the Company in relation to which no direction has been made by it under sub-section (*1*) of section 7.

Duty to deliver possession of property acquired and documents relating thereto.

11. (*1*) On the vesting of the management of the undertakings of the Company in the State Government under section 6, every person in whose possession or custody or under whose control any property referred to in sub-section (*1*) of section 4 may be, shall deliver the property to the State Government forthwith.

(*2*) Any person, who on the appointed day has in his possession or under his control any books, documents or other papers relating to the undertakings of the Company which has vested in the State Government under section 6 and which belong to the Company, or, would have so belonged if the undertakings of the Company had not vested in the State Government, shall be liable to account for the said books, documents or other papers to the State Government and shall deliver them up to the State Government.

(*3*) The State Government may take or cause to be taken, all necessary steps for securing possession of all properties which have vested in that Government under this Act.

(*4*) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the State Government as to its powers and duties and the State Government may also, if it so desires, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted by it or in relation to any other matter arising in the course of such management.

(5) On the vesting of the management of the undertakings of the Company in a Government company or in the Custodian, the provisions of sub-sections (1) to (4) shall apply to, or in relation to, the Government company or the Custodian, as the case may be, as they apply to, or in relation to, the State Government, subject to the modification that the references to the State Government shall be construed as references to the Government company or the Custodian, as the case may be.

Accounts to be rendered by the Company or any other person.

12. (1) Where, in pursuance of any decree, order or injunction of any court or otherwise,—

(a) the Authorised Controller was, after the date of taking over and before the appointed day; and

(b) the Central Government, the State Government, or the Government company, as the case may be, is on or after the appointed day,

prevented from taking over the management of any part of the undertakings of the Company, the Company, or any other person in possession, custody or control of such part, shall, within sixty days from the appointed day, render accounts to the State Government or the Government company in relation to the period commencing on the date of taking over and ending on the date on which such part was or is handed over to the Authorised Controller or, as the case may be, the Central Government, the State Government, or the Government company, with regard to the—

(i) assets and stores of the undertakings or any part thereof, acquired, utilised or sold during the said period; and

(ii) income derived by the Company or any other person from the undertakings or any part thereof during the said period.

(2) If, on examination of the accounts referred to in sub-section (1), any income or other moneys is or are found to have been derived by the Company or any other person from such undertakings or any part thereof during the period referred to in that sub-section or any other moneys are found to be payable, such income or other moneys shall be recoverable by the Central Government, the State Government or the Government company from the Company or such other person, as the case may be, and from the amount payable under this Act to the Company and the debt due to the Central Government, the State Government or the Government company on this account shall rank as an unsecured debt.

(3) If no account is rendered by the Company or such other person in respect of the undertakings or any part thereof within the period referred to in sub-section (1) or if the Central Government, the State Government or the Government company, as the case may be, has any reason to believe that the account rendered by the Company or such other person is incorrect or false in any material particular, the Central Government, the State Government or the Government company may refer the matter to the Commissioner and thereupon the Commissioner shall determine the income derived by the Company or such other person from such undertakings or any part thereof during the period referred to in sub-section (1) and take steps to recover the said income or other moneys from the Company or such other person and from the amount payable to the Company under this Act as if the debt due to the Central Government, the State Government or the Government company on this account were an unsecured debt.

(4) No mortgage, charge, lien or other encumbrance in relation to the undertakings of the Company or any part thereof shall be binding on the Central Government, the State Government or the Government company, if such mortgage, charge, lien or other encumbrance was created, at any time during the period in which the Authorised Controller was, and the Central Government, the State Government or the Government company, as the case may be, is, prevented, by any decree, order or injunction of any court or otherwise, from taking over the management of the undertakings or any part thereof.

1 of 1956.

Accounts.

13. The Custodian shall maintain accounts of the undertakings of the Company in accordance with the provisions of the Companies Act, 1956.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

Employment of certain employees to continue.

14. (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become, on and from the appointed day or such later date, as the case may be, an employee of the State Government or, as the case may be, of the Government company in which the right, title and interest of the Company in relation to its undertakings, have vested under this Act, and shall hold office or service under the State Government, or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the State Government, or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the State Government, or by the Government company, as the case may be.

14 of 1947.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any of the undertakings of the Company to the State Government, or the Government company, shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(3) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the State Government, or the Government company, by reason of the provisions of this Act, is entitled to any arrears of salary or wages or any payment for any leave not availed of or any other payment, not being payment by way of gratuity or pension, such person may, except to the extent of such liability which has been taken over by the Central Government or the State Government or the Government company under sub-section (2) of section 5, enforce his claim against the Company, by which he was employed immediately before such transfer but not against the Central Government, or the State Government, or the Government company.

Provident fund and other funds.

15. Where moneys representing provident fund, superannuation fund, welfare fund or other fund for the benefit of the persons employed in any of the undertakings of the Company have vested in an authority established under any law for the time being in force, such moneys shall continue to vest in such authority for the benefit of the said persons.

CHAPTER VI

COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

16. (*1*) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under sections 8 and 9, by notification, appoint a Commissioner of Payments.

(*2*) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(*3*) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(*4*) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by the Central Government to the Commissioner.

17. (*1*) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

(*a*) an amount equal to the amount specified in section 8, and

(*b*) an amount equal to the amount payable to the Company under section 9.

(*2*) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and thereafter the said deposit account shall be operated by the Commissioner.

(*3*) The interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (*2*) shall enure to the benefit of the Company.

Certain powers of the Central Government or State Government or Government company.

18. (*1*) The Central Government, or the State Government, or the Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government, or the State Government, or the Government Company, realised after the appointed day notwithstanding that the realisation pertains to a period prior to the appointed day.

(*2*) The Central Government, or the State Government, or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company, not being any liability specified in sub-section (*2*) of section 5, in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government, or the State Government, or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

Claims to be made to the Commissioner.

19. Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

Priority of claims.

20. The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely :—

(*a*) Category I shall have precedence over all other Categories and Category II shall have precedence over Category III, and so on;

(*b*) the claims specified in each of the Categories, except Category III, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(*c*) the liabilities specified in Category III shall be discharged, subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, *inter se*, of such loans; and

(*d*) the question of discharging any liability with regard to a matter specified in a lower Category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher Category.

Examination of claims.

21. (*1*) On receipt of the claims made under section 19, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(*2*) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower Category, he shall not be required to examine the claims in respect of such lower Category.

Admission or rejection of claims.

22. (*1*) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim failing which he will be excluded from the benefit of the disbursement made by the Commissioner.

(*2*) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in the English language and in one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) the summoning and enforcing the attendance of any witness and examining him on oath;

(*b*) the discovery and production of any document or other material object producible as evidence;

(*c*) the reception of evidence on affidavits;

(*d*) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court of Gujarat, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of amount by the Commissioner to claimants.

23. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such sums are due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement of amounts to the Company.

24. (*1*) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property, has vested in the Central Government, or the State Government, or the Government company, under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government, or the State Government, or the Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

Undisbursed or unclaimed amount to be deposited to the general revenue account.

25. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

Assumption of liability.

26. (1) Where any liability of the Company arising out of any item specified in Category I, Category II and Category III of the Schedule is not discharged fully by the Commissioner out of the amount paid to him under this Act, the Commissioner shall intimate in writing to the Central Government the extent of that liability which remains undischarged and that liability shall be assumed by the Central Government.

(2) On the vesting of the undertakings of the Company in the State Government or the Government company under this Act, the liability assumed by the Central Government under sub-section (1) shall be the liability of the State Government or the Government company, as the case may be.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect.

27. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Provision relating to contracts.

28. (1) Every contract entered into by the Company in relation to its undertakings before the date of taking over for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government, or the State Government, or the Government company, and, in ratifying such contract, the Central Government, the State Government, or the Government company, as the case may be, may make such alterations or modifications therein as it may think fit.

(2) Every contract entered into by the Company, or the Authorised Controller on behalf of the Company, in relation to its undertakings, on or after the date of taking over for any service, sale or supply and in force immediately before the appointed day shall remain in force, unless such contract is terminated or modified or altered by the Central Government, the State Government or the Government company, as the case may be, within a period of one hundred and eighty days from the appointed day.

(3) The Central Government, the State Government or the Government company, as the case may be, shall not refuse to ratify, terminate, modify or alter a contract under sub-section (1) or sub-section (2)—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the undertakings of the Company; and

(b) except after giving to the parties to such contract a reasonable opportunity of being heard and recording in writing its reasons for refusal to ratify the contract or for terminating the contract or for making any alteration or modification therein.

Transfer of assets, etc., to be void in certain cases.

29. (1) Except with the prior approval of the Central Government, the State Government or the Government company, neither the Company nor any other person in possession of the undertakings of the Company or any part thereof the management or the possession of which could not be taken over by the Authorised Controller or the Central Government or the State Government or the Government company by reason of any decree, order or injunction of any court or otherwise shall, on and from the appointed day, transfer by sale, mortgage or otherwise any property or other assets forming part of the undertakings of the Company and any such transfer, without such prior approval, shall be void and inoperative.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Protection of action taken in good faith.

30. (1) No suit, prosecution, or other legal proceeding shall lie against the Central Government or any officer of that Government, or the Custodian, or the State Government, or the Government company, or any officer of the State Government or the Government company or other person authorised by the Central Government, or the State Government, or the Government company, for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government, or the State Government, or the Custodian or the Government company, or any officer or other employee of the State Government or of the Government company or other person authorised by the State Government, or the Government company, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

31. Any person who,— Penalties.

(a) having in his possession, custody or control any property forming part of any undertaking of the Company, wrongfully withholds such property from the Central Government, or the State Government, or the Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Company or wilfully withholds or fails to furnish to the Central Government, or the State Government, or the Government company, or any person or body of persons specified by that Government, or the State Government, or the Government company, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the Central Government, or the State Government, or the Government company or any person or body of persons specified by the Central Government, or the State Government, or the Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertaking of the Company; or

(c) wrongfully removes or destroys any property forming part of any undertaking of the Company or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

32. (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: Offences by companies.

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 had 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 or other association of individuals; and

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

Delegation of powers.

33. (*1*) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 34, may also be exercised by such person or persons as may be specified in the notification.

(*2*) Whenever any delegation of power is made under sub-section (*1*), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Power of Central Government to make rules.

34. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (*4*) of section 4;

(*b*) any other matter which is required to be, or may be, prescribed.

(*3*) 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 immediately following the session 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 to remove difficulties.

35. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

Declaration as to the policy of the State.

36. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

THE SCHEDULE

(*See* sections 5, 20, 21, 22, 24 and 26)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

PART A

Post-take-over management period

Category I

Loans advanced by the Gujarat Agro Industries Corporation for carrying on any trading or manufacturing operations.

PART B

Pre-take-over management period

Category II

Arrears in relation to the provident fund, salaries, wages and other amounts due to the employees of the Company.

Category III

Secured loans.

Category IV

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a Local Authority or a State Electricity Board.

Category V

(*i*) Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

(*ii*) Any other dues.

THE INTEREST ACT, 1978

No. 14 of 1978

[31st *March*, 1978.]

An Act to consolidate and amend the law relating to the allowance of interest in certain cases.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Interest Act, 1978.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

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

Definitions.

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

(*a*) "court" includes a tribunal and an arbitrator;

(*b*) "current rate of interest" means the highest of the maximum rates at which interest may be paid on different classes of deposits (other than those maintained in savings account or those maintained by charitable or religious institutions) by different classes of scheduled banks in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949. **10 of 1949.**

Explanation.—In this clause, "scheduled bank" means a bank, not being a co-operative bank, transacting any business authorised by the Banking Regulation Act, 1949; **10 of 1949**

(*c*) "debt" means any liability for an ascertained sum of money and includes a debt payable in kind, but does not include a judgment debt;

(*d*) "personal injuries" includes any disease and any impairment of a person's physical or mental condition;

(e) all other words and expressions used herein but not defined and defined in the Reserve Bank of India Act, 1934, shall have the meanings respectively assigned to them in that Act. 2 of 1934

Power of court to allow interest.

3. (*1*) In any proceedings for the recovery of any debt or damages or in any proceedings in which a claim for interest in respect of any debt or damages already paid is made, the court may, if it thinks fit, allow interest to the person entitled to the debt or damages or to the person making such claim, as the case may be, at a rate not exceeding the current rate of interest, for the whole or part of the following period, that is to say,—

(*a*) if the proceedings relate to a debt payable by virtue of a written instrument at a certain time, then, from the date when the debt is payable to the date of institution of the proceedings;

(*b*) if the proceedings do not relate to any such debt, then, from the date mentioned in this regard in a written notice given by the person entitled or the person making the claim to the person liable that interest will be claimed, to the date of institution of the proceedings:

Provided that where the amount of the debt or damages has been repaid before the institution of the proceedings, interest shall not be allowed under this section for the period after such repayment.

(*2*) Where, in any such proceedings as are mentioned in sub-section (*1*),—

(*a*) judgment, order or award is given for a sum which, apart from interest on damages, exceeds four thousand rupees, and

(*b*) the sum represents or includes damages in respect of personal injuries to the plaintiff or any other person, or in respect of a person's death,

then, the power conferred by that sub-section shall be exercised so as to include in that sum interest on those damages or on such part of them as the court considers appropriate for the whole or part of the period from the date mentioned in the notice to the date of institution of the proceedings, unless the court is satisfied that there are special reasons why no interest should be given in respect of those damages.

(*3*) Nothing in this section,—

(*a*) shall apply in relation to—

(*i*) any debt or damages upon which interest is payable as of right, by virtue of any agreement; or

(*ii*) any debt or damages upon which payment of interest is barred, by virtue of an express agreement;

(*b*) shall affect—

(*i*) the compensation recoverable for the dishonour of a bill of exchange, promissory note or cheque, as defined in the Negotiable Instruments Act, 1881; or 26 of 1881

(*ii*) the provisions of rule 2 of Order II of the First Schedule to the Code of Civil Procedure, 1908; 5 of 1908.

(c) shall empower the court to award interest upon interest.

Interest payable under certain enactments.

4. (*1*) Notwithstanding anything contained in section 3, interest shall be payable in all cases in which it is payable by virtue of any enactment or other rule of law or usage having the force of law.

(*2*) Notwithstanding as aforesaid, and without prejudice to the generality of the provisions of sub-section (*1*), the court shall, in each of the following cases, allow interest from the date specified below to the date of institution of the proceedings at such rate as the court may consider reasonable, unless the court is satisfied that there are special reasons why interest should not be allowed, namely :—

(*a*) where money or other property has been deposited as security for the performance of an obligation imposed by law or contract, from the date of the deposit;

(*b*) where the obligation to pay money or restore any property arises by virtue of a fiduciary relationship, from the date of the cause of action;

(*c*) where money or other property is obtained or retained by fraud, from the date of the cause of action;

(*d*) where the claim is for dower or maintenance, from the date of the cause of action.

Section 34 of the Code of Civil Procedure, 1908 to apply.

5. Nothing in this Act shall affect the provisions of section 34 of the Code of Civil Procedure, 1908. 5 of 1908.

Repeal and saving

6. (*1*) As from the commencement of this Act, the Interest Act, 1839 and any other law corresponding thereto in force in any State immediately before such commencement shall stand repealed. 32 of 1839.

(*2*) The provisions of this Act shall not apply to any suit or other legal proceeding pending at the commencement of this Act and the provisions of the corresponding law applicable immediately before such commencement shall, notwithstanding the repeal of such law by sub-section (*1*), continue to apply to such suit or other legal proceeding.

(*3*) The mention of particular matters in sub-section (*2*) 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 repeal. 10 of 1897.

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE CHILDREN (AMENDMENT) ACT, 1978

No. 15 OF 1978

[31st March, 1978.]

An Act to amend the Children Act, 1960.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Children (Amendment) Act, 1978.

(2) It shall come into force in any Union territory on such date as the Administrator may, by notification in the Official Gazette, appoint.

Substitution of references to "Code of Criminal Procedure, 1898" by references to "Code of Criminal Procedure, 1973".

60 of 1960.
5 of 1898.
2 of 1974.

2. Throughout the Children Act, 1960 (hereinafter referred to as the principal Act), unless otherwise expressly provided in this Act, for the words and figures "Code of Criminal Procedure, 1898", wherever they occur, the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act,—

(i) after clause (j), the following clause shall be inserted, namely:—

'(jj) "fit person" or "fit institution" means any person or institution (not being a police station or jail) found fit by the competent authority to receive and take care of a child entrusted to his or its care and protection on the terms and conditions specified by the competent authority;';

(ii) in sub-clause (iii) of clause (l), after the word "unfit", the words "or unable" shall be inserted;

(iii) after clause (n), the following clause shall be inserted, namely:—

'(nn) "place of safety" means any place or institution (not being a police station or jail), the person in charge of which is willing temporarily to receive and take care of a child and which in the opinion of the competent authority may be a place of safety for the child;';

(iv) in clause (r), for the words "fit person", the words "fit person or fit institution" shall be substituted.

REPEALED

Amendment of section 4.

4. In section 4 of the principal Act, in sub-section (3), for the words and figures "Code of Criminal Procedure, 1898, on a magistrate of the first class", the words and figures "Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 5.

5. In section 5 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) A children's court shall consist of such number of Metropolitan Magistrates or Judicial Magistrates of the first class, as the case may be, forming a Bench as the Administrator thinks fit to appoint, of whom one shall be designated as the principal magistrate; and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class. 2 of 1974.

(3) Every children's court shall be assisted by a panel of two honorary social workers possessing such qualifications as may be prescribed, of whom at least one shall be a woman, and such panel shall be appointed by the Administrator.".

Amendment of section 6.

6. In section 6 of the principal Act, in sub-section (1), for the words "senior magistrate", the words "principal magistrate" shall be substituted.

Amendment of section 7.

7. In section 7 of the principal Act,—

(i) to sub-section (1), the following provisos shall be added, namely:—

"Provided that a Board or a children's court may, if it is of opinion that it is necessary so to do having regard to the circumstances of the case, transfer any proceedings to any children's court or Board, as the case may be:

Provided further that where there is any difference of opinion between a Board and a children's court regarding the transfer of any proceedings under the first proviso, it shall be referred to the Chief Metropolitan Magistrate or, as the case may be, the Chief Judicial Magistrate for decision, and in a case where the District Magistrate is functioning as a Board or a children's court, such difference of opinion shall be referred to the Court of Session, and the decision of the Chief Metropolitan Magistrate or Chief Judicial Magistrate or, as the case may be, the Court of Session on such reference shall be final.";

(ii) in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

"(c) any Metropolitan Magistrate or Judicial Magistrate of the first class, as the case may be.".

REPEALED

8. In section 9 of the principal Act,— Amendment of section 9.

(*i*) in sub-section (*3*), the words "to ensure all round growth and development of his personality" shall be added at the end;

(*ii*) in sub-section (*4*), after the words "children's homes", the words ", including the standards and the nature of services to be maintained by them," shall be inserted.

9. In section 10 of the principal Act,— Amendment of section 10.

(*i*) in sub-section (*3*), the words "to ensure all round growth and development of his personality" shall be added at the end;

(*ii*) in sub-section (*4*), after the words "special schools", the words ", including the standards and the nature of services to be maintained by them," shall be inserted.

10. In section 11 of the principal Act, in sub-section (*4*), after the words "observation homes", the words ", including the standards and the nature of services to be maintained by them," shall be inserted. Amendment of section 11.

11. For section 12 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 12.

"12. The Administrator may, by rules made under this Act, provide— After-care organisations.

(*a*) for the establishment or recognition of after-care organisations and the powers that may be exercised by them for effectively carrying out their functions under this Act;

(*b*) for a scheme of after-care programme to be followed by such after-care organisations for the purpose of taking care of children after they leave children's homes or special schools and for the purpose of enabling them to lead an honest, industrious and useful life;

(*c*) for the preparation and submission of a report by the probation officer in respect of each child prior to his discharge from a children's home or special school, as the case may be, regarding the necessity and nature of after-care of such child, the period of such after-care, supervision thereof and for the submission of a report by the probation officer on the progress of each such child;

(*d*) for the standards and the nature of services to be maintained by such after-care organisations;

(*e*) for such other matters as may be necessary for the purpose of effectively carrying out the scheme of after-care programme of children.".

12. In sub-section (*2*) of section 14, section 17 and sub-sections (*2*) and (*3*) of section 18 of the principal Act, after the words "observation home", the words "or a place of safety" shall be inserted. Amendment of sections 14, 17 and 18.

Amendment of section 15.

13. In sub-section (3) of section 15 of the principal Act,—

(i) in the opening portion, after the words "observation home", the words "or a place of safety" shall be inserted;

(ii) in the proviso, after the word "unfit", the words "or unable" shall be inserted.

Amendment of section 24.

14. In section 24 of the principal Act, in sub-sections (1) and (2), for the words and figures "section 239 of the Code of Criminal Procedure, 1898", the words and figures "section 223 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 28.

15. In section 28 of the principal Act,—

(i) in sub-section (1), in clause (b), after the words "police officers", the words "and legal practitioners" shall be inserted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) No legal practitioner shall be entitled to appear before a Board in any case or proceeding before it, except with the special permission of that Board.".

Amendment of section 50.

16. In section 50 of the principal Act, in sub-sections (3) and (4), for the words and figures "section 488 of the Code of Criminal Procedure, 1898", the words and figures "section 125 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 55.

17. In section 55 of the principal Act, for the words and figures "Chapter XLII of the Code of Criminal Procedure, 1898", the words and figures "Chapter XXXIII of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 58.

18. In section 58 of the principal Act, in sub-section (1), for the words, figures and letter "section 29B and section 399 of the Code of Criminal Procedure, 1898", the words and figures "section 27 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 59.

19. In section 59 of the principal Act,—

(i) in sub-section (2),—

(a) in clause (d), the words "and the standards and the nature of services to be maintained by them" shall be added at the end;

(b) in clause (g), the words and figures "and such other matters as are referred to in section 12" shall be added at the end;

(c) in clause (m),—

(1) for the words "fit person", the words "fit person or fit institution" shall be substituted;

(2) for the word "persons", the words "persons or institutions" shall be substituted;

REPEALED

(*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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or 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 PUBLIC SECTOR IRON AND STEEL COMPANIES (RESTRUCTURING) AND MISCELLANEOUS PROVISIONS ACT, 1978

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THE PUBLIC SECTOR IRON AND STEEL COMPANIES (RESTRUCTURING) AND MISCELLANEOUS PROVISIONS ACT, 1978

No. 16 OF 1978

[30*th April*, 1978.]

An Act to provide for restructuring of the iron and steel companies in the public sector so as to secure better management and greater efficiency in their working and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions Act, 1978.

(*2*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date[1] on which this Act comes into force;

(*b*) "Companies Act" means the Companies Act, 1956; 1 of 1956

(*c*) "corresponding unit", in relation to—

(*i*) the Integral Company, means that unit of the Integral Company which corresponds to the unit of the dissolved company or the transferred company in which the concerned officer or other employee was holding office before the transfer of the said unit;

(*ii*) a transferee company, means that unit of a transferee company which corresponds to the unit of the dissolved company in which the concerned officer or other employee was holding office before the transfer of the said unit;

(*d*) "dissolved company" means a company specified in the First Schedule;

[1] 1-5-1978 : Notifin. No. S.O. 291(E), dated 30-4-1978, Gazette of India, Extraordinary, Part II, Section 3 (ii), Page 576.

(*e*) "Integral Company" means the Steel Authority of India Limited, a company formed and registered under the Companies Act having its registered office at New Delhi;

(*f*) "transferee company" means the company to which the undertakings of a dissolved company or of a transferred unit, as the case may be, stand transferred by virtue of the provisions of this Act;

(*g*) "transferred company" means,—

(*i*) Metallurgical and Engineering Consultants (India) Limited, a company formed and registered under the Companies Act having its registered office at Ranchi in the State of Bihar;

(*ii*) National Mineral Development Corporation Limited, a company formed and registered under the Companies Act having its registered office at Hyderabad in the State of Andhra Pradesh;

(*iii*) Hindustan Steelworks Construction Limited, a company formed and registered under the Companies Act having its registered office at Calcutta in the State of West Bengal;

(*iv*) Bharat Refractories Limited, a company formed and registered under the Companies Act having its registered office at Bokaro Steel City in the State of Bihar; or

(*v*) India Firebricks and Insulation Company Limited, a company formed and registered under the Companies Act having its registered office at Bombay in the State of Maharashtra;

(*h*) "transferred unit" means,—

(*i*) Kiriburu Iron Ore Mines, a unit of the National Mineral Development Corporation Limited; or

(*ii*) Meghahatuburu Iron Ore Project, a unit of the National Mineral Development Corporation Limited;

(*iii*) Ramgarh Refractory Plant, a unit of the Hindustan Steel Limited (situated near Ramgarh in the State of Bihar);

(*iv*) Refractory Project, a unit of the Hindustan Steel Limited (situated at Bhilai in the State of Madhya Pradesh); or

(*v*) Sillimanite Mines, a unit of the Hindustan Steel Limited (situated in the State of Meghalaya).

(2) Words and expressions used herein and not defined but defined in the Companies Act have the meanings respectively assigned to them in that Act.

"Undertaking"—meaning of.

3. For the purposes of this Act, the undertaking of a dissolved company or of a transferred unit shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), industrial or other licences, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, stores, instruments, machinery, automobiles and other vehicles, cash or bank balances, cash in hand, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the dissolved company or the transferred unit, as the case may

be (whether within or without India), and all books of account, registers maps, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind of the dissolved company or the transferred unit.

Explanation.—Reference in this section to an undertaking of a transferred unit shall be deemed to be a reference to so much of the undertaking of the company of which that forms a unit as is relatable to it as if it were a separate company.

CHAPTER II

DISSOLUTION, TRANSFER AND VESTING OF UNDERTAKINGS OF CERTAIN COMPANIES

Dissolution, transfer and vesting of undertakings of certain companies in Integral Company.

4. On the appointed day, the companies specified in the First Schedule shall stand dissolved and, subject to the provisions of sections 6 and 7, all the undertakings of such companies shall stand transferred to, and vest in the Integral Company.

Transfer and vesting of Kiriburu Iron Ore Mines, etc., in Integral Company.

5. On the appointed day, the undertakings of the following transferred units shall stand transferred to, and vest in, the Integral Company, namely:—

(*a*) Kiriburu Iron Ore Mines, a unit of the National Mineral Development Corporation Limited, and

(*b*) Meghahatuburu Iron Ore Project, a unit of the National Mineral Development Corporation Limited.

Transfer and vesting of Refractory Plant, etc., in the Bharat Refractories Limited.

6. (*1*) On the appointed day, the undertakings of the following transferred units shall stand transferred to, and vest in, the Bharat Refractories Limited, namely:—

(*a*) Ramgarh Refractory Plant of the Hindustan Steel Limited (situated near Ramgarh in the State of Bihar),

(*b*) Sillimanite Mines of the Hindustan Steel Limited (situated in the State of Meghalaya), and

(*c*) Refractory Project of the Hindustan Steel Limited (situated at Bhilai in the State of Madhya Pradesh).

(*2*) Notwithstanding anything contained in the Companies Act, as from the appointed day, the registered office of the Bharat Refractories Limited may remain at Bokaro Steel City or be transferred to Ranchi.

Transfer of immovable properties of Hindustan Steel Limited to Metallurgical and Engineering Consultants (India) Limited.

7. On the appointed day, the right, title and interest of the Hindustan Steel Limited in the immovable properties owned by it in Ranchi District of the State of Bihar, together with liabilities and obligations in relation thereto, shall stand transferred to, and vest in, the Metallurgical and Engineering Consultants (India) Limited.

CHAPTER III

TRANSFER OF SHARES

8. On the appointed day, all the shares held by the Bokaro Steel Limited in the share capital of the Bharat Refractories Limited shall stand transferred to, and vest in, the Central Government.

Transfer of shares held by Bokaro Steel Limited to Central Government.

9. On the appointed day, all the shares held by the Integral Company in the share capital of each of the companies specified in the Second Schedule shall stand transferred to, and vest in, the Central Government.

Transfer of shares held by Integral Company to Central Government.

10. On the appointed day, all the shares held by the Integral Company in the share capital of the India Firebricks and Insulation Company Limited (a company formed and registered under the Companies Act having its registered office at Bombay in the State of Maharashtra) shall stand transferred to, and vest in, the Bharat Refractories Limited.

Transfer of shares held by Integral Company to Bharat Refractories Limited.

11. On the appointed day, all the shares held by the Central Government in the share capital of the Indian Iron and Steel Company Limited (a company under the Companies Act having its registered office at Calcutta in the State of West Bengal) shall stand transferred to, and vest in, the Integral Company.

Transfer of shares held by Central Government to Integral Company.

12. The Central Government, the Bharat Refractories Limited or the Integral Company, as the case may be, shall be deemed, as from the appointed day, to have been registered in the register of members of the companies concerned as the holder of each share which stands transferred to, and vested in, each of them by virtue of the provisions of section 8, 9, 10 or 11, as the case may be.

Central Government, etc., deemed to be registered in the register of members of companies.

13. (*1*) The Central Government may, from time to time, by order published in the Official Gazette, specify the amount by which the paid-up share capital of the Integral Company, the Bharat Refractories Limited, the Metallurgical and Engineering Consultants (India) Limited, and the National Mineral Development Corporation Limited shall stand reduced or increased as a result of transfer of shares, undertakings or immovable properties, as the case may be, under the provisions of this Act.

(*2*) In specifying the amount under sub-section (*1*), the Central Government shall have regard to the following factors, namely:—

(*i*) the book value of shares referred to in section 8, 9, 10 or 11, as the case may be, of the concerned company, on the appointed day;

Power of Central Government to modify amount of paid-up share capital of Integral Company, etc., and issue of shares.

(*ii*) the net value of the undertakings of the dissolved company and transferred unit, as on the appointed day, and

(*iii*) the book value of the immovable properties owned by the Hindustan Steel Limited referred to in section 7, as on the appointed day,

as are transferred to or from the companies referred to in sub-section (*1*).

(*3*) Every order made under sub-section (*1*) shall be made within a period of one year from the appointed day and any such order may take effect prospectively or retrospectively, but not with effect from a date earlier than the appointed day.

(*4*) Any order made by the Central Government under this section may include a direction for the issue or cancellation of appropriate number of shares so as to give effect to the provisions of this Act.

CHAPTER IV

PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

Provisions relating to officers and other employees of dissolved companies.

14. (*1*) Every officer (not being a director) or other employee holding office immediately before the appointed day in a dissolved company in relation to any undertaking of such company, other than an officer or other employee holding such office in relation to transferred units referred to in section 6, shall, as from the appointed day, continue to hold office as such in the corresponding unit of the Integral Company by the same tenure and upon the same terms and conditions of service and with the same rights and privileges as to retirement benefits as would have been admissible to him if the company in which he was holding office had not been dissolved and shall continue to do so unless and until such tenure and terms and conditions are duly altered by the Integral Company.

(*2*) Notwithstanding anything contained in sub-section (*1*), rules relating to the conditions of service and Standing Orders applicable to the officers or other employees referred to in sub-section (*1*), as immediately before the appointed day, shall continue to apply unless and until they are duly altered by the Integral Company or other authority as the case may be.

Provisions relating to officers and employees of transferred units.

15. (*1*) Every officer or other employee holding office immediately before the appointed day in the transferred unit shall, as from the appointed day, continue to be an officer or other employee of the corresponding unit of the transferee company by the same tenure and upon the same terms and conditions of service and with the same rights and privileges as to retirement benefits as would have been admissible to him if the transferred unit in which he was holding office had not been transferred and shall continue to do so unless and until such tenure and terms and conditions are duly altered by the transferee company.

(*2*) Notwithstanding anything contained in sub-section (*1*), rules relating to the conditions of service and Standing Orders applicable to the

officers or other employees referred to in sub-section (*1*), as immediately before the appointed day, shall continue to apply unless and until they are duly altered by the transferee company or other authority, as the case may be.

Provisions relating to directors.

16. (*1*) Every person holding office as a director of a dissolved company immediately before the appointed day shall, on that day, cease to hold office as such director.

(*2*) Every person, being a director in whole-time employment of a dissolved company, immediately before the appointed day, shall continue to be an employee of the corresponding unit of the Integral Company with such designation and on such terms and conditions as may be determined by the Integral Company.

Provision relating to auditors.

17. Every person appointed under section 619 of the Companies Act as an auditor of a dissolved company or of a transferred unit, holding office immediately before the appointed day, may continue to hold office as such auditor in the corresponding unit of the Integral Company or of any other transferee company, as the case may be, for the duration for which he was so appointed, on the same terms and conditions as were applicable to him immediately before the appointed day.

14 of 1947.

Compensation for transfer not payable.

18. Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of services of any officer or other employee shall not entitle such officer or other employee to any compensation under that Act or under any other law for the time being in force and no claim for such compensation shall be entertained by any court, tribunal or other authority.

Provident Fund.

19. Where a provident fund has been established by a dissolved company or any other company in respect of a transferred unit for the benefit of the employees and the same stands vested in a trust, the moneys and other assets standing to the credit of each provident fund shall continue to be held in trust with the same objects as were applicable before the appointed day and the trustees of such trusts immediately before the appointed day shall, subject to the provisions of the trust deeds and the rules relating to such trusts, continue to function as trustees in respect of such provident fund of the corresponding unit of the Integral Company or of other transferee company, as the case may be, as if this Act had not been passed:

Provided that the right to nominate trustees and other rights relating to the trusts vested in the dissolved company or other company in respect of the transferred unit, as the case may be, shall vest in the Integral Company or other transferee company, as the case may be.

Gratuity, welfare and other funds.

20. Where any gratuity, welfare or other fund has been established by a dissolved company or any other company in respect of a transferred unit for the benefit of its employees and is in existence immediately before the appointed day, all moneys and other assets standing to the credit of or relatable to such gratuity, welfare or other fund shall vest in the corresponding unit of the Integral Company or other transferee company, as the case may be.

CHAPTER V

FINANCIAL PROVISIONS

Provisions with respect to income-tax and surtax.

21. (*1*) The Integral Company shall be liable to pay any sum under the provisions of the Income-tax Act or the Companies (Profits) Surtax Act which any dissolved company would have been liable to pay if the dissolution had not taken place, in the like manner and to the same extent as the dissolved company.

(*2*) For the purpose of making an assessment of the income or, as the case may be, the chargeable profits of any dissolved company and for the purpose of levying any sum in accordance with the provisions of sub-section (*1*),—

(*a*) any proceeding taken against any dissolved company before the appointed day shall be deemed to have been taken against the Integral Company and may be continued against the Integral Company from the stage at which it stood immediately before the appointed day;

(*b*) any proceeding which could have been taken against any dissolved company if the dissolution had not taken place, may be taken against the Integral Company; and

(*c*) all the provisions of the Income-tax Act or, as the case may be, the Companies (Profits) Surtax Act shall apply accordingly.

(*3*) The assessment of the income or, as the case may be, the chargeable profits of the previous year of any dissolved company in which the dissolution took place up to the appointed day shall be made as if such dissolution had not taken place, and all the provisions of the Income-tax Act and the Companies (Profits) Surtax Act shall, so far as may be, apply accordingly.

(*4*) The transfer to, and vesting in, of the undertaking of any dissolved company in the Integral Company under the provisions of this Act shall be deemed to be an amalgamation in relation to such companies and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if references in the said Act to the amalgamating company and the amalgamated company were references to the dissolved company and the Integral Company respectively.

(*5*) Where any capital asset forming part of any undertaking belonging to the transferred unit or, as the case may be, the Hindustan Steel Limited is, in pursuance of section 5 or section 6 or section 7, transferred to, and vests in, the Integral Company or the Bharat Refractories Limited or, as the case may be, the Metallurgical and Engineering Consultants (India) Limited, such capital asset shall be deemed to have been transferred in a scheme of amalgamation and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if references in the said Act to the amalgamating company were references to the transferred unit or, as the case may be, the Hindustan Steel Limited and the references to the amalgamated company, being an Indian company, were references to the Integral Company or the Bharat Refractories Limited or, as the case may be, the Metallurgical and Engineering Consultants (India) Limited.

(*6*) The accumulated loss and the unabsorbed depreciation, if any, of any dissolved company shall be deemed to be the loss or, as the case

may be, allowance for depreciation of the Integral Company for the previous year in which the undertaking of the dissolved company vested in the Integral Company, and the provisions of the Income-tax Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(7) The provisions of sub-sections (1) to (6) shall have effect notwithstanding anything to the contrary contained in the Income-tax Act or the Companies (Profits) Surtax Act.

Explanation.—For the purposes of this section,—

43 of 1961 (*a*) "Income-tax Act" means the Income-tax Act, 1961;

7 of 1964. (*b*) "Companies (Profits) Surtax Act" means the Companies (Profits) Surtax Act, 1964;

(*c*) words and expressions used in this section and not defined in this Act but defined in the Income-tax Act or the Companies (Profits) Surtax Act shall have the meanings respectively assigned to them in the said Acts.

Taxes, fees and other charges not payable.

22. For the removal of doubts, it is hereby declared that no taxes, duties, fees or other charges of whatever nature (including registration charges), shall be payable in respect of any transfer of shares or transfer of any undertakings or transfer of any immovable property under the provisions of this Act.

CHAPTER VI

MISCELLANEOUS

Saving of contracts, etc.

23. (*1*) All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party subsisting or having effect immediately before the appointed day, shall, as from that day, be of full force and effect against, or in favour of the Integral Company or other transferee company, as the case may be, and may be enforced as fully and effectually as if, instead of the dissolved company, the Integral Company or other transferee company had been a party thereto.

(*2*) All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the company in respect of a transferred unit is a party if and in so far as it relates to matters pertaining to the undertakings of the transferred unit, subsisting or having effect immediately before the appointed day, shall, as from that day, be of full force and effect against, or in favour of the Integral Company or other transferee company, as the case may be, and may be enforced as fully and effectually as if, instead of such company, the Integral Company or other transferee company had been a party thereto.

Saving of legal proceedings.

24. If, on the appointed day, there is pending any suit, arbitration, appeal or other legal proceeding of whatever nature by or against a dissolved company, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer under the provisions of this Act to the Integral Company or any other transferee company, as the case may be, of the undertakings of the dissolved company or of

anything contained in this Act, but the suit, arbitration, appeal or other proceeding may be continued, prosecuted and enforced by or against the Integral Company or other transferee company, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

Power to remove difficulties.

25. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary, for the removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

Act to override the provisions of other laws.

26. The provisions of this Act or of any order made thereunder shall have effect notwithstanding anything contained in the Companies Act or in any other law for the time being in force or in any contract, express or implied, or in any rules or regulations having effect by virtue of any law other than this Act.

Power to amend memorandum and articles of association.

27. (*1*) For the purpose of giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, make amendments in the memorandum or articles of association, or both, of the Integral Company or other transferee company.

(*2*) Any amendments in the memorandum or articles of association of the Integral Company or other transferee company made in pursuance of sub-section (*1*) shall have effect notwithstanding anything contained in the Companies Act.

THE FIRST SCHEDULE

[*See* sections 2(*1*)(*d*) and 4]

1. Bhilai Ispat Limited, a company formed and registered under the Companies Act having its registered office at Bhilai in the State of Madhya Pradesh.

2. Bokaro Steel Limited, a company formed and registered under the Companies Act having its registered office at Bokaro Steel City in the State of Bihar.

3. Durgapur Mishra Ispat Limited, a company formed and registered under the Companies Act having its registered office at Durgapur in the State of West Bengal.

4. Hindustan Steel Limited, a company formed and registered under the Companies Act having its registered office at Ranchi in the State of Bihar.

5. Rourkela Ispat Limited, a company formed and registered under the Companies Act having its registered office at Rourkela in the State of Orissa.

6. SAIL International Limited, a company formed and registered under the Companies Act having its registered office at Calcutta in the State of West Bengal.

7. Salem Steel Limited, a company formed and registered under the Companies Act having its registered office at Salem in the State of Tamil Nadu.

THE SECOND SCHEDULE

(*See* section 9)

1. Metallurgical and Engineering Consultants (India) Limited, a company formed and registered under the Companies Act having its registered office at Ranchi in the State of Bihar.

2. Hindustan Steelworks Construction Limited, a company formed and registered under the Companies Act having its registered office at Calcutta in the State of West Bengal.

3. National Mineral Development Corporation Limited, a company formed and registered under the Companies Act having its registered office at Hyderabad in the State of Andhra Pradesh.

4. Manganese Ore (India) Limited, a company formed and registered under the Companies Act having its registered office at Nagpur in the State of Maharashtra.

5. Mandovi Pellets Limited, a company formed and registered under the Companies Act having its registered office at Mormugao Harbour in the Union territory of Goa, Daman and Diu.

Rep. by Act 19 of 1988, s. 2 & Sch. I

THE PORT LAWS (AMENDMENT) ACT, 1978

No. 17 OF 1978

[4th *May*, 1978.]

An Act further to amend the Indian Ports Act, 1908 and the Major Port Trusts Act, 1963.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Port Laws (Amendment) Act, 1978.

Amendment of section 5 of Act 15 of 1908.

2. In the Indian Ports Act, 1908, in sub-section (1) of section 5, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the power conferred on the Government by this sub-section includes the power to alter the limits of any port by uniting with that port any other port or any part of any other port.".

Amendment of section 133 of Act 38 of 1963.

3. In section 133 of the Major Port Trusts Act, 1963, in sub-section (3), after the words "that corresponding law shall, on such application, cease to have force in relation to that port", the words and figures "and section 6 of the General Clauses Act, 1897, shall apply as if such corresponding law were a Central Act and such cesser of operation were a repeal" shall be inserted. 10 of 1897.

THE APPROPRIATION (No. 3) ACT, 1978

No. 18 OF 1978

[*7th May*, 1978.]

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 1978-79.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 3) Act, 1978. 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, 1978] to the sum of thirty-six thousand five hundred and thirty-three crores, seventy lakhs and thirty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1978-79 in respect of the services specified in column 2 of the Schedule. Issue of RS. 36533 70,33,000 out of the Consolidated Fund of India for the year 1978-79.

3 of 1978

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. Appropriation.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 23rd February, 1978, and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time. Construction of references to Ministries and Departments in the Schedule.

THE SCHEDULE

(*See* sections 2, 3 and 4)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture . .	Revenue	2,56,25,000	*10,000*	2,56,35,000
2	Agriculture . .	Revenue	214,70,84,000	..	214,70,84,000
		Capital	585,72,18,000	*113,01,11,000*	698,73,29,000
3	Fisheries . .	Revenue	33,25,88,000	..	33,25,88,000
		Capital	34,16,64,000	*78,40,000*	34,95,04,000
4	Animal Husbandry and Dairy Development . . .	Revenue	102,73,81,000	*20,000*	102,74,01,000
		Capital	7,26,26,000	*4,21,70,000*	11,47,96,000
5	Forest . . .	Revenue	34,33,14,000	..	34,33,14,000
		Capital	3,82,50,000	*5,40,50,000*	9,23,00,000
6	Department of Food	Revenue	469,71,24,000	*3,10,000*	469,74,34,000
		Capital	37,96,60,000	*80,00,000*	38,76,60,000
7	Department of Rural Development .	Revenue	290,87,16,000	*15,000*	290,87,31,000
		Capital	24,77,49,000	*6,59,75,000*	31,37,24,000
8	Department of Agricultural Research and Education .	Revenue	12,70,000	..	12,70,000
9	Payments to Indian Council of Agricultural Research .	Revenue	71,99,70,000	..	71,99,70,000
10	Department of Irrigation . . .	Revenue	25,19,61,000	..	25,19,61,000
		Capital	8,70,93,000	*20,04,00,000*	28,74,93,000
11	Ministry of Commerce, Civil Supplies and Co-operation .	Revenue	1,78,85,000	..	1,78,85,000
12	Foreign Trade and Export Production .	Revenue	295,13,55,000	..	295,13,55,000
		Capital	405,65,42,000	..	405,65,42,000
13	Civil Supplies and Co-operation .	Revenue	37,52,30,000	..	37,52,30,000
		Capital	22,05,40,000	*3,31,54,000*	25,36,94,000
14	Ministry of Communications . .	Revenue	1,86,84,000	..	1,86,84,000
		Capital	13,31,20,000	..	13,31,20,000
15	Overseas Communications Service .	Revenue	11,32,10,000	..	11,32,10,000
		Capital	11,04,10,000	..	11,04,10,000
16	Posts and Telegraphs —Working Expenses	Revenue	653,04,90,000	*30,000*	653,05,20,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
17	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Repayment of Loans from General Revenues .	Revenue	186,53,83,000	..	186,53,83,000
18	Capital Outlay on Posts and Telegraphs	Capital	347,38,40,000	..	347,38,40,000
19	Ministry of Defence	Revenue	88,72,54,000	..	88,72,54,000
		Capital	70,30,40,000	24,39,000	70,54,79,000
20	Defence Services—Army . . .	Revenue	1897,92,47,000	12,50,000	1898,04,97,000
21	Defence Services—Navy . . .	Revenue	205,53,70,000	1,50,000	205,55,20,000
22	Defence Services—Air Force . .	Revenue	586,13,90,000	1,50,000	586,15,40,000
23	Defence Services—Pensions . .	Revenue	150,62,75,000	50,000	150,63,25,000
24	Capital Outlay on Defence Services .	Capital	293,39,14,000	30,00,000	293,69,14,000
25	Department of Education . .	Revenue	1,75,87,000	..	1,75,87,000
26	Education . .	Revenue	218,19,56,000	..	218,19,56,000
		Capital	1,09,96,000	4,06,99,000	5,16,95,000
27	Department of Social Welfare . .	Revenue	24,88,41,000	..	24,88,41,000
28	Ministry of Energy	Revenue	67,65,000	..	67,65,000
29	Power Development	Revenue	63,91,68,000	..	63,91,68,000
		Capital	209,78,61,000	19,30,00,000	229,08,61,000
30	Coal and Lignite .	Revenue	28,26,93,000	..	28,26,93,000
		Capital	396,99,02,000	..	396,99,02,000
31	Ministry of External Affairs .	Revenue	113,57,28,000	25,000	113,57,53,000
		Capital	14,78,27,000	..	14,78,27,000
32	Ministry of Finance	Revenue	33,71,14,000	40,000	33,71,54,000
33	Customs . .	Revenue	33,04,39,000	45,000	33,04,84,000
34	Union Excise Duties	Revenue	50,64,10,000	2,59,000	50,66,69,000
35	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax	Revenue	49,90,70,000	2,30,000	49,93,00,000
36	Stamps . .	Revenue	18,61,00,000	..	18,61,00,000
		Capital	1,26,00,000	..	1,26,00,000
37	Audit . . .	Revenue	61,61,82,000	98,65,000	62,60,47,000
38	Currency, Coinage and Mint . .	Revenue	50,78,70,000	..	50,78,70,000
		Capital	21,79,69,000	..	21,79,69,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
39	Pensions . .	Revenue	44,50,00,000	50,00,000	45,00,00,000
40	Opium and Alkaloid Factories	Revenue	36,98,60,000	1,000	36,98,61,000
		Capital	2,31,75,000	..	2,31,75,000
41	Transfers to State and Union Territory Governments	Revenue	854,92,20,000	1851,94,00,000	2706,86,20,000
		Capital	..	2139,08,30,000	2139,08,30,000
	CHARGED—*Interest Payments*	Revenue	..	1840,44,84,000	1840,44,84,000
42	Other Expenditure of the Ministry of Finance . . .	Revenue	235,75,16,000	3,43,000	235,78,59,000
		Capital	595,19,40,000	..	595,19,40,000
43	Loans to Government Servants, etc. . .	Capital	70,00,00,000	..	70,00,00,000
	CHARGED—*Repayment of Debt* . .	Capital	..	14584,11,75,000	14584,11,75,000
44	Ministry of Health and Family Welfare	Revenue	88,60,000	..	88,60,000
45	Medical and Public Health . .	Revenue	182,80,50,000	..	182,80,50,000
		Capital	81,22,29,000	3,00,000	81,25,29,000
46	Family Welfare	Revenue	122,07,61,000	..	122,07,61,000
		Capital	1,00,000	..	1,00,000
47	Ministry of Home Affairs . .	Revenue	2,48,40,000	..	2,48,40,000
48	Cabinet . .	Revenue	1,28,37,000	..	1,28,37,000
49	Department of Personnel and Administrative Reforms	Revenue	7,42,82,000	20,000	7,43,02,000
		Capital	..	1,00,00,000	1,00,00,000
50	Police . .	Revenue	218,63,67,000	1,13,000	218,64,80,000
		Capital	7,30,00,000	10,75,00,000	18,05,00,000
51	Census . .	Revenue	5,19,77,000	..	5,19,77,000
52	Other Expenditure of the Ministry of Home Affairs	Revenue	181,35,08,000	86,51,48,000	267,86,56,000
		Capital	76,56,29,000	4,17,96,000	80,74,25,000
53	Delhi . .	Revenue	142,06,70,000	62,86,000	142,69,56,000
		Capital	87,85,97,000	2,00,00,000	89,85,97,000
54	Chandigarh .	Revenue	21,57,87,000	73,38,000	22,31,25,000
		Capital	9,71,19,000	6,00,000	9,77,19,000
55	Andaman and Nicobar Islands . .	Revenue	24,97,63,000	8,000	24,97,71,000
		Capital	13,46,98,000	..	13,46,98,000
56	Dadra and Nagar Haveli	Revenue	2,54,44,000	..	2,54,44,000
		Capital	2,56,55,000	..	2,56,55,000
57	Lakshadweep . .	Revenue	5,07,80,000	..	5,07,80,000
		Capital	1,90,54,000	..	1,90,54,000
58	Ministry of Industry	Revenue	3,09,34,000	..	3,09,34,000
59	Industries	Revenue	25,60,98,000	..	25,60,98,000
		Capital	239,71,35,000	..	239,71,35,000

No. of Vote	2 Services and purposes		3 Sums not exceeding: Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
60	Village and Small Industries . .	Revenue	54,94,99,000	*1,50,00,000*	56,44,99,000
		Capital	52,06,05,000	*11,20,00,000*	63,26,05,000
61	Textiles, Handloom and Handicrafts .	Revenue	60,46,24,000	..	60,46,24,000
		Capital	45,08,50,000	*18,27,50,000*	63,36,00,000
62	Ministry of Information and Broadcasting	Revenue	83,35,000	..	83,35,000
63	Information and Publicity . .	Revenue	19,06,42,000	..	19,06,42,000
		Capital	1,63,76,000	..	1,63,76,000
64	Broadcasting . .	Revenue	69,15,97,000	..	69,15,97,000
		Capital	18,03,84,000	..	18,03,84,000
65	Ministry of Labour	Revenue	82,07,000	..	82,07,000
66	Labour and Employment . .	Revenue	69,03,99,000	*25,000*	69,04,24,000
		Capital	9,60,000	..	9,60,000
67	Ministry of Law, Justice and Company Affairs . . .	Revenue	14,12,08,000	..	14,12,08,000
		Capital	1,00,000	..	1,00,000
68	Administration of Justice .	Revenue	38,55,000	*67,11,000*	1,05,66,000
69	Ministry of Petroleum, Chemicals and Fertilizers . .	Revenue	1,09,13,000	..	1,09,13,000
70	Petroleum and Petro-Chemicals Industries	Revenue	79,64,32,000	..	79,64,32,000
		Capital	188,66,84,000	..	188,66,84,000
71	Chemicals and Fertilizers Industries	Revenue	123,14,67,000	..	123,14,67,000
		Capital	947,11,75,000	..	947,11,75,000
72	Ministry of Planning	Revenue	2,55,000	..	2,55,000
73	Statistics . . .	Revenue	13,79,11,000	..	13,79,11,000
74	Planning Commission	Revenue	4,79,13,000	..	4,79,13,000
75	Ministry of Shipping and Transport	Revenue	3,05,00,000	*10,000*	3,05,10,000
76	Roads . . .	Revenue	102,52,08,000	*25,000*	102,52,33,000
		Capital	98,36,49,000	*11,57,00,000*	109,93,49,000
77	Ports, Lighthouses and Shipping .	Revenue	39,32,62,000	*4,000*	39,32,66,000
		Capital	195,68,98,000	*78,00,000*	196,46,98,000
78	Road and Inland Water Transport	Revenue	72,55,000	..	72,55,000
		Capital	9,78,00,000	*2,07,00,000*	11,85,00,000
79	Department of Steel	Revenue	12,81,66,000	..	12,81,66,000
		Capital	538,82,88,000	*24,51,00,000*	563,33,88,000
80	Department of Mines	Revenue	35,00,000	..	35,00,000
81	Mines and Minerals	Revenue	52,51,02,000	..	52,51,02,000
		Capital	60,29,00,000	*60,00,000*	60,89,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
82	Department of Supply	Revenue	24,54,000	..	24,54,000
83	Supplies and Disposals	Revenue	7,58,59,000	..	7,58,59,000
84	Department of Rehabilitation . . .	Revenue	27,79,68,000	*1,10,000*	27,80,78,000
		Capital	12,97,22,000	*10,74,00,000*	23,71,22,000
85	Ministry of Tourism and Civil Aviation .	Revenue	53,41,000	..	53,41,000
86	Meteorology . .	Revenue	17,37,11,000	..	17,37,11,000
		Capital	8,38,58,000	..	8,38,58,000
87	Aviation . . .	Revenue	28,12,66,000	*50,000*	28,13,16,000
		Capital	28,17,65,000	*10,00,000*	28,27,65,000
88	Tourism . . .	Revenue	4,71,69,000	..	4,71,69,000
		Capital	3,36,19,000	..	3,36,19,000
89	Ministry of Works and Housing . .	Revenue	1,16,40,000	..	1,16,40,000
90	Public Works . .	Revenue	77,22,25,000	*10,000*	77,22,35,000
		Capital	28,30,44,000	*5,00,000*	28,35,44,000
91	Water Supply and Sewerage . .	Revenue	62,70,00,000	..	62,70,00,000
92	Housing and Urban Development . .	Revenue	15,49,86,000	*69,57,000*	16,19,43,000
		Capital	36,83,02,000	*45,68,00,000*	82,51,02,000
93	Stationery and Printing	Revenue	33,97,56,000	*4,000*	33,97,60,000
94	Department of Atomic Energy . .	Revenue	51,42,000	..	51,42,000
95	Atomic Energy Research, Development and Industrial Projects . . .	Revenue	77,71,07,000	..	77,71,07,000
		Capital	102,52,02,000	..	102,52,02,000
96	Nuclear Power Schemes	Revenue	48,33,02,000	..	48,33,02,000
		Capital	47,39,33,000	*34,00,000*	47,73,33,000
97	Department of Culture	Revenue	10,95,21,000	..	10,95,21,000
98	Archaeology . .	Revenue	7,19,95,000	..	7,19,95,000
99	Department of Electronics . . .	Revenue	10,13,15,000	..	10,13,15,000
		Capital	14,46,42,000	..	14,46,42,000
100	Department of Science and Technology .	Revenue	33,33,62,000	..	33,33,62,000
		Capital	1,25,00,000	..	1,25,00,000
101	Survey of India .	Revenue	19,60,00,000	..	19,60,00,000
102	Grants to Council of Scientific and Industrial Research . .	Revenue	46,13,49,000	..	46,13,49,000
103	Department of Space	Revenue	39,77,48,000	..	39,77,48,000
		Capital	31,44,40,000	..	31,44,40,000
104	Lok Sabha . .	Revenue	4,82,81,000	*1,18,000*	4,83,99,000

1	2		3		
			Sums not exceeding		
No. of Vote	Services and purposes		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
105	Rajya Sabha . .	Revenue	1,98,64,000	*95,000*	1,99,59,000
106	Department of Parliamentary Affairs .	Revenue	26,64,000	..	26,64,000
	CHARGED—*Staff, Household and Allowances of the President* . .	Revenue	..	*70,06,000*	70,06,000
107	Secretariat of the Vice-President . .	Revenue	5,63,000	..	5,63,000
	CHARGED—*Union Public Service Commission*	Revenue	..	*2,01,60,000*	2,01,60,000
	TOTAL . . .		15700,79,69,000	*20832,90,64,000*	36533,70,33,000

THE FINANCE ACT, 1978

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.

CHAPTER III

DIRECT TAXES

Income-tax

3. Amendment of section 6.
4. Amendment of section 23.
5. Amendment of section 32.
6. Amendment of section 35B.
7. Insertion of new section 35CCA.
8. Amendment of section 37.
9. Amendment of section 52.
10. Amendment of section 54.
11. Amendment of section 54B.
12. Amendment of section 54D.
13. Amendment of section 54E.
14. Amendment of section 72A.
15. Amendment of section 80A.
16. Amendment of section 80C.
17. Insertion of new section 80CC.
18. Amendment of section 80P.
19. Amendment of section 155.
20. Amendment of section 193.
21. Insertion of new section 194BB.

SECTIONS

22. Amendment of section 208.
23. Amendment of section 209.
24. Insertion of new section 209A.
25. Amendment of section 211.
26. Amendment of section 212.
27. Amendment of section 215.
28. Amendment of section 216.
29. Amendment of section 217.
30. Substitution of new section for section 218.
31. Amendment of section 273.
32. Consequential amendments to certain sections.

Interest-tax

33. Amendment of Act 45 of 1974.

CHAPTER IV

INDIRECT TAXES

34. Amendment of Act 51 of 1975.
35. Auxiliary duties of customs.
36. Amendment of Act 1 of 1944.
37. Special duties of excise.
38. Discontinuance of salt duty.

CHAPTER V

MISCELLANEOUS

39. Amendment of Act 6 of 1898.
40. Amendment of Act 38 of 1974.

THE SCHEDULE.

THE FINANCE ACT, 1978

No. 19 OF 1978

[*12th May*, 1978.]

An Act to give effect to the financial proposals of the Central Government for the financial year 1978-79.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Finance Act, 1978.

(*2*) Save as otherwise provided in this Act, sections 2 to 33 and section 40 shall be deemed to have come into force on the 1st day of April, 1978.

CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), for the assessment year commencing on the 1st day of April, 1978, income-tax shall be charged at the rates specified in Part I of the Schedule and shall be increased,—

(*a*) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(*b*) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein.

(*2*) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the Schedule applies, where the assessee has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds ten thousand rupees, then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first

eight thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income:

Provided that for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (*ii*) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(*ii*) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income:

Provided that for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (*i*) and clause (*ii*) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (*ii*):

Provided that where the sum so arrived at exceeds seventy per cent. of the amount by which the total income exceeds ten thousand rupees, the excess shall be disregarded;

(*iv*) the amount of income-tax determined in accordance with sub-clause (*iii*) shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(*3*) In cases to which the provisions of Chapter XII or section 164 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (*1*) or the rates as specified in that Chapter or section, as the case may be. **43 of 1961.**

(4) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the Schedule.

(5) Subject to the provisions of sub-section (6), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the Schedule:

Provided that in cases to which the provisions of Chapter XII or section 164 of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(6) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds ten thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax, or as the case may be, "advance tax" shall be so calculated, charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income:

Provided that for the purposes of determining the amount of income-tax or "advance tax" in accordance with this sub-clause, the provisions of clause (*ii*) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(*ii*) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income:

Provided that for the purposes of determining the amount of income-tax or "advance tax" in accordance with this sub-clause, the provisions of clause (*i*) and clause (*ii*) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*ii*);

Provided that where the sum so arrived at exceeds seventy per cent. of the amount by which the total income exceeds ten thousand rupees, the excess shall be disregarded;

(*iv*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*iii*) shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(7) For the purposes of this section and the Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act;

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1978, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.

Explanation.—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VIA of the Income-tax Act) is not less than fifty-one per cent. of such total income;

(d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the Schedule;

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax thereon is payable by the State Government;

(g) all other words and expressions used in this section or in the Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 6.

3. In section 6 of the Income-tax Act, in clause (1), the following *Explanation* shall be inserted at the end with effect from the 1st day of April, 1979, namely:—

'*Explanation.*—In the case of an individual, being a citizen of India, who is rendering service outside India and who is or has been in India on leave or vacation in the previous year, the provisions of sub-clauses (b) and (c) shall apply in relation to that year as if for the words "thirty days" and "sixty days", respectively occurring in the said sub-clauses the words "ninety days" had been substituted.'.

4. In section 23 of the Income-tax Act, in the second proviso to sub-section (*1*), with effect from the 1st day of April, 1979,— **Amendment of section 23.**

(*a*) in clause (*b*), for the words, figures and letters "completed after the 31st day of March, 1970", the words, figures and letters "completed after the 31st day of March, 1970 but before the 1st day of April, 1978" shall be substituted;

(*b*) for the words, brackets and letters "so, however, that the income in respect of any residential unit referred to in clause (*a*) or clause (*b*) is in no case a loss.", the following shall be substituted, namely:—

"(*c*) in the case of a building comprising one or more residential units, the erection of which is completed after the 31st day of March, 1978, for a period of five years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(*i*) in respect of any residential unit whose annual value as so determined does not exceed two thousand four hundred rupees, the amount of such annual value;

(*ii*) in respect of any residential unit whose annual value as so determined exceeds two thousand four hundred rupees, an amount of two thousand four hundred rupees,

so, however, that the income in respect of any residential unit referred to in clause (*a*) or clause (*b*) or clause (*c*) is in no case a loss.".

5. In section 32 of the Income-tax Act, in sub-section (*1*), in clause (*iv*), for the words "twenty per cent.", the words "forty per cent." shall be substituted with effect from the 1st day of April, 1979. **Amendment of section 32.**

6. In section 35B of the Income-tax Act,— **Amendment of section 35B.**

(*a*) in sub-section (*1*),—

(*i*) in the proviso to clause (*a*), after the words, figures and letters "after the 28th day of February, 1973", the words figures and letters "but before the 1st day of April, 1978" shall be inserted;

(*ii*) in clause (*b*),—

(*1*) in sub-clause (*i*), the words, figures and letters ", where such expenditure is incurred before the 1st day of April, 1978" shall be inserted at the end;

(*2*) in sub-clause (*iii*), the words, figures and letters ", where such expenditure is incurred before the 1st day of April, 1978" shall be inserted at the end;

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

'(*1A*) Notwithstanding anything contained in sub-section (*1*), no deduction under this section shall be allowed in relation to any expenditure incurred after the 31st day of March, 1978 unless the following conditions are fulfilled, namely:—

(*a*) the assessee referred to in that sub-section is engaged in—

(*i*) the business of export of goods and is, either a small-scale exporter or a holder of an Export House Certificate; or

(*ii*) the business of provision of technical know-how, or the rendering of services in connection with the provision of technical know-how, to persons outside India; and

(*b*) the expenditure referred to in that sub-section is incurred by the assessee wholly and exclusively for the purposes of the business referred to in sub-clause (*i*) or, as the case may be, sub-clause (*ii*) of clause (*a*).

Explanation.—For the purposes of this sub-section,—

(*a*) "small-scale exporter" means a person who exports goods manufactured or produced in any small-scale industrial undertaking or undertakings owned by him:

Provided that such person does not own any industrial undertaking which is not a small-scale industrial undertaking;

(*b*) "Export House Certificate" means a valid Export House Certificate issued by the Chief Controller of Imports and Exports, Government of India;

(*c*) "provision of technical know-how" has the meaning assigned to it in sub-section (2) of section 80MM;

(*d*) "small-scale industrial undertaking" has the meaning assigned to it in clause (2) of the *Explanation* below sub-section (2) of section 32A.'.

Insertion of new section 35CCA.

7. In the Income-tax Act, after section 35CC, the following section shall be inserted with effect from the 1st day of June, 1978, namely:—

Expenditure by way of payment to associations and institutions for carrying out rural development programmes.

'35CCA. (1) Where an assessee incurs any expenditure by way of payment of any sum, to an association or institution to which this section applies, to be used for carrying out any programme of rural development approved by the prescribed authority, the assessee shall be allowed a deduction of the amount of such expenditure incurred during the previous year.

(2) This section applies to any association or institution—

(*a*) which has as its object the undertaking of any programme of rural development; and

(*b*) which is for the time being approved in this behalf by the prescribed authority:

Provided that the prescribed authority shall not grant such approval for more than three years at a time.

Explanation.—For the purposes of this section, "programme of rural development" shall have the meaning assigned to it in the *Explanation* to sub-section (*1*) of section 35CC.

(*3*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed in respect of such expenditure under section 35C or section 35CC or section 80G or any other provision of this Act for the same or any other assessment year.'.

8. In section 37 of the Income-tax Act, after sub-section (*3*), the following sub-sections shall be inserted with effect from the 1st day of April, 1979, namely:— Amendment of section 37.

'(*3A*) Notwithstanding anything contained in sub-section (*1*) but without prejudice to the provisions of sub-section (*3*), where the aggregate expenditure incurred by an assessee on advertisement, publicity and sales promotion in India exceeds forty thousand rupees, so much of such aggregate expenditure as is equal to an amount calculated as provided hereunder shall not be allowed as a deduction, namely:—

(*i*) where such aggregate expenditure does not exceed ¼ per cent. of the turnover or, as the case may be, gross receipts of the business or profession	10 per cent. of the adjusted expenditure;
(*ii*) where such aggregate expenditure exceeds ¼ per cent. but does not exceed ½ per cent. of the turnover or, as the case may be, gross receipts of the business or profession	12½ per cent. of the adjusted expenditure;
(*iii*) where such aggregate expenditure exceeds ½ per cent. of the turnover or, as the case may be, gross receipts of the business or profession	15 per cent. of the adjusted expenditure.

Explanation.—For the purposes of this sub-section,—

(*a*) "adjusted expenditure" means the aggregate expenditure incurred by the assessee on advertisement, publicity and sales promotion in India as reduced by so much of such expenditure as is not allowed under sub-section (*1*) and as further reduced by so much of such expenditure as is not allowed under sub-section (*3*);

(*b*) "turnover" and "gross receipts" mean turnover or gross receipts, as the case may be, as reduced by any discount or rebate allowed by the assessee.

(*3B*) Nothing contained in sub-section (*3A*) shall apply in relation to any expenditure incurred by an assessee on—

(*i*) advertisement in any small newspaper;

(*ii*) advertisement in any newspaper for recruitment of personnel;

(*iii*) the publication in any newspaper of any notice required to be published by or under any law;

(*iv*) the maintenance of any office for the purposes of advertisement, publicity or sales promotion;

(*v*) the payment of salary [as defined in clause (*1*) of section 17] to any employee engaged in advertisement, publicity or sales promotion;

(*vi*) the holding of, or the participation in, any press conference, sales conference, trade convention, trade fair or exhibition;

(*vii*) publication and distribution of journals, catalogues or price lists;

(*viii*) such other items as may be prescribed.

Explanation 1.—For the purposes of clause (*i*), an advertisement in a newspaper shall be deemed to be an advertisement in a small newspaper, if the average circulation of such newspaper in the year in which such advertisement has been published, is certified by the prescribed authority as not exceeding fifteen thousand copies.

Explanation 2.—"Average circulation", in relation to any newspaper, shall be taken to be the number arrived at by dividing the aggregate of the number of copies of such newspaper circulated during a year by the total number of days on which such newspaper was published in that year.

(*3C*) For the removal of doubts, it is hereby declared that nothing contained in sub-section (*3A*) shall apply in relation to expenditure in the nature of entertainment expenditure incurred by an assessee in connection with advertisement, publicity or sales promotion and such expenditure shall be governed by the provisions of sub-section (*2A*).

(*3D*) In a case where an assessee has set up an industrial undertaking for the manufacture or production of any articles, nothing in sub-section (*3A*) shall apply in respect of any expenditure on advertisement, publicity or sales promotion incurred by the assessee, for the purposes of the business of such undertaking, in the previous year in which such undertaking begins to manufacture or produce such articles and each of the two previous years immediately succeeding that previous year.'.

9. In section 52 of the Income-tax Act, in sub-section (2), in clause (*b*) of the proviso, the words "and the adequacy of the full value of the consideration so determined or approved is not questioned by the assessee" shall be omitted and shall be deemed always to have been omitted. **Amendment of section 52.**

10. Section 54 of the Income-tax Act shall be renumbered and shall be deemed to have been renumbered with effect from the 1st day of April, 1974, as sub-section (*1*) thereof and,— **Amendment of section 54.**

(*a*) in sub-section (*1*) as so renumbered,—

(*i*) after the words "for the purposes of his own or the parent's own residence", the brackets and words "(hereafter in this section referred to as the original asset)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974;

(*ii*) in clause (*i*), for the words "is greater than the cost of the new asset", the words and brackets "is greater than the cost of the house property so purchased or constructed (hereafter in this section referred to as the new asset)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1974;

(*b*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

'(*2*) Where the transfer of the original asset is by way of compulsory acquisition under any law and the compensation awarded for such acquisition is enhanced by any court, tribunal or other authority, then,

(*a*) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (*1*) from being charged to tax under section 45, or

(*b*) the capital gain attributable to the enhancement of the compensation;

whichever is less (that which is less being hereafter in this sub-section referred to as the unadjusted capital gain), shall, if the assessee has within a period of one year before or after the date of receipt of the additional compensation purchased, or has within

a period of two years after that date constructed, a house property for the purposes of his own residence (hereafter in this sub-section referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*i*) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(*ii*) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the unadjusted capital gain.

Explanation.—For the purposes of this sub-section, sub-section (*2*) of section 54B and sub-section (*2*) of section 54D,—

(*1*) "additional compensation", in relation to the transfer of any capital asset by way of compulsory acquisition under any law, means the difference between the compensation for the acquisition of such asset as enhanced by any court, tribunal or other authority and the compensation which would have been payable if such enhancement had not been made;

(*2*) the capital gain attributable to the enhancement by any court, tribunal or other authority of the compensation for the compulsory acquisition of any capital asset shall be—

(*a*) where the computation of the capital gain under section 48 by taking the compensation which would have been payable if such enhancement had not been made as the full value of the consideration received or accruing as a result of the transfer results in a loss or does not result in any profits or gains chargeable to income-tax under the head "Capital gains", the capital gain computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of the transfer; and

(*b*) in any other case, the difference between—

(*i*) the capital gain computed under section 48 by taking the compensation as so enhanced as the full value of the consideration so received or accruing, and

(*ii*) the capital gain computed under section 48 by taking the compensation which would have been payable if such enhancement had not been made as the full value of the consideration so received or accruing.'.

11. Section 54B of the Income-tax Act shall be renumbered and shall be deemed to have been renumbered with effect from the 1st day of April, 1974, as sub-section (*1*) thereof and,— **Amendment of section 54B.**

(*a*) in sub-section (*1*) as so renumbered, after the words "used by the assessee or a parent of his for agricultural purposes", the brackets and words "(hereinafter referred to as the original asset)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974;

(*b*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

"(2) Where the transfer of the original asset is by way of compulsory acquisition under any law and the compensation awarded for such acquisition is enhanced by any court, tribunal or other authority, then,

(*a*) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (*1*) from being charged to tax under section 45, or

(*b*) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is less being hereinafter referred to as the unadjusted capital gain), shall, if the assessee has within a period of two years after the date of receipt of the additional compensation purchased any land for being used for agricultural purposes (hereinafter referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*i*) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be *nil;* or

(*ii*) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced by the amount of the unadjusted capital gain.".

Amendment of section 54D.

12. Section 54D of the Income-tax Act shall be renumbered and shall be deemed to have been renumbered with effect from the 1st day of April, 1974, as sub-section (*1*) thereof and,—

(*a*) in sub-section (*1*) as so renumbered, after the words "for the purposes of the business of the said undertaking", the brackets and words "(hereafter in this section referred to as the original asset)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974;

(*b*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

"(2) Where the compensation awarded for the compulsory acquisition of the original asset is enhanced by any court, tribunal or other authority, then,

(*a*) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (*1*) from being charged to tax under section 45, or

(*b*) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is less being hereafter in this sub-section referred to as the unadjusted capital gain), shall, if the assessee has within a period of three years after the date of receipt of the additional compensation purchased any land or building or any right in any land or building or constructed any building for the purposes of shifting or re-establishing the undertaking referred to in sub-section (*1*) or setting up another industrial undertaking (such land, building or right being hereafter in this sub-section referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*i*) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil;* or

(*ii*) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the unadjusted capital gain.".

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13. In section 54E [as directed to be inserted by section 13 of the Finance (No. 2) Act, 1977] of the Income-tax Act,— Amendment of section 54E.

(*a*) in sub-section (*1*),—

(*i*) in *Explanation 1*,—

(*1*) in the opening portion, after the words "For the purposes of this sub-section", the words, brackets and figure "and sub-section (*3*)" shall be inserted;

(*2*) in clause (*v*), the words, figures and letters ", where the investment in such shares is made before the 1st day of March, 1978" shall be inserted at the end;

(*3*) after clause (*v*), the following clause shall be inserted, namely:—

"(*va*) equity shares forming part of any eligible issue of capital, where the investment in such shares is made after the 28th day of February, 1978;";

(*ii*) *Explanation 2* shall be renumbered as *Explanation 4* and before the *Explanation* as so renumbered, the following *Explanations* shall be inserted, namely:—

'*Explanation 2*.—"Eligible issue of capital" shall have the meaning assigned to it in sub-section (*3*) of section 80CC.

Explanation 3.—An assessee shall not be deemed to have invested the full value of the consideration or any part thereof in any equity shares referred to in clause (*va*) of *Explanation 1*, unless the assessee has subscribed to or purchased the shares in the manner specified in sub-section (*4*) of section 80CC.';

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

"(*1A*) Where the assessee deposits after the 27th day of April, 1978 the full value of the consideration or any part thereof received or accruing as a result of the transfer of the original asset in any new asset, being a deposit referred to in clause (*vi*) of *Explanation 1* below sub-section (*1*), the cost of such new asset shall not be taken into account for the purposes of that sub-section unless the following conditions are fulfilled, namely:—

(*a*) the assessee furnishes, along with the deposit, a declaration in writing, to the bank or the co-operative society referred to in the said clause (*vi*) with which such deposit is made, to the effect that the assessee will not take any loan or advance on the security of such deposit during a period of three years from the date on which the deposit is made;

(*b*) the assessee furnishes, along with the return of income for the assessment year relevant to the previous year in which the transfer of the original asset was effected or within such further time as may be allowed by the Income-tax Officer, a copy of the declaration referred to in clause (*a*) duly attested by an officer not below the rank of sub-agent, agent or manager of such bank or an officer of corresponding rank of such co-operative society.

(*1B*) Where on the fulfilment of the conditions specified in sub-section (*1A*), the cost of the new asset referred to in that sub-section is taken into account for the purposes of sub-section (*1*), the assessee shall, within a period of ninety days from the expiry of the period of three years reckoned from the date of such deposit, furnish to the Income-tax Officer a certificate from the officer referred to in clause (*b*) of sub-section (*1A*) to the effect that the assessee has not taken any loan or advance on the security of such deposit during the said period of three years.";

(c) in sub-section (*2*), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—Where the assessee deposits after the 27th day of April, 1978 the full value of the consideration or any part thereof received or accruing as a result of the transfer of the original asset in any new asset, being a deposit referred to in clause (*vi*) of *Explanation 1* below sub-section (*1*), and such assessee takes any loan or advance on the security of such deposit, he shall be deemed to have converted (otherwise than by transfer) such deposit into money on the date on which such loan or advance is taken.";

(*d*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

'(*3*) Where the transfer of the original asset is by way of compulsory acquisition under any law or where the full value of the consideration for the transfer of the capital asset is determined or approved by the Central Government or the Reserve Bank of India, and the compensation awarded for such acquisition or, as the case may be, the full value of the consideration so determined or approved is enhanced by any court, tribunal or other authority, then, so much of the capital gain, computed under section 48 by taking the compensation or consideration as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as it attributable to the enhancement of the compensation or consideration (hereafter in this sub-section referrred to as the unadjusted capital gain) shall, if the assessee has, within a period of six months after the date of receipt of the additional compensation or, as the case may be, the additional consideration, invested or deposited the whole or any part of such additional compensation or consideration in any specified asset (hereafter in this section referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*a*) if the cost of the relevant asset is not less than the additional compensation or consideration, the whole of the unadjusted capital gain shall not be charged under section 45;

(*b*) if the cost of the relevant asset is less than the additional compensation or consideration, so much of the unadjusted capital gain as bears to the whole of the unadjusted capital gain the same proportion as the cost of acquisition of the relevant asset bears to the additional compensation or consideration shall not be charged under section 45.

Explanation.—For the purposes of this sub-section,—

(*i*) "additional compensation" shall have the meaning assigned to it in clause (*1*) of the *Explanation* to sub-section (*2*) of section 54;

(*ii*) "additional consideration", in relation to the transfer of any capital asset the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, means the difference between the amount of consideration for such transfer as enhanced by any court, tribunal or other authority and the amount of consideration which would have been payable if such enhancement had not been made;

(*iii*) "cost", in relation to any relevant asset, being a deposit referred to in clause (*vi*) of *Explanation 1* below sub-section (*1*), means the amount of such deposit;

(*iv*) the capital gain attributable to the enhancement by any court, tribunal or other authority of the compensation for the compulsory acquisition of any capital asset or of the consideration for the transfer of any capital asset as determined or approved by the Central Government or the Reserve Bank of India shall be deemed to be so much of the capital gain arising from the transfer of the capital asset as bears to the whole of the capital gain as computed under section 48 by taking the compensation or consideration as so enhanced as the full value of the consideration received or accruing as a result of the transfer, the same proportion as the amount of additional compensation or consideration bears to the compensation or consideration as so enhanced.

(*4*) Where the relevant asset is transferred, or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such relevant asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (*3*) shall be deemed to be income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets of the previous year in which the relevant asset is transferred or converted (otherwise than by transfer) into money.

Explanation.—Where the assessee deposits after the 27th day of April, 1978, the whole or any part of the additional compensation or, as the case may be, the additional consideration referred to in sub-section (*3*) in any relevant asset, being a deposit referred to in clause (*vi*) of *Explanation 1* below sub-section (*1*), and such assessee takes any loan or advance on the security of such deposit, he shall be deemed to have converted (otherwise than by transfer) such deposit into money on the date on which such loan or advance is taken.

(*5*) Where the assessee deposits the whole or any part of the additional compensation or, as the case may be, the additional consideration referred to in sub-section (*3*) in any relevant asset,

being a deposit referred to in clause (*vi*) of *Explanation 1* below sub-section (*1*), the provisions of sub-sections (*1A*) and (*1B*) shall apply in relation to such deposit as they apply in relation to the deposit referred to in the said sub-sections.

(*6*) Where the cost of the equity shares referred to in clause (*va*) of *Explanation 1* below sub-section (*1*) is taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (*1*) or clause (*a*) or clause (*b*) of sub-section (*3*), a deduction with reference to such cost shall not be allowed under section 80CC.'.

Amendment of section 72A.

14. In section 72A [as directed to be inserted by section 15 of the Finance (No. 2) Act, 1977] of the Income-tax Act, after sub-section (*2*) and before the *Explanation*, the following sub-section shall be inserted, namely:— 29 of 1977.

"(*3*) Where a company owning an industrial undertaking or a ship proposes to amalgamate with any other company and such other company submits the proposed scheme of amalgamation to the specified authority and that authority is satisfied, after examining the scheme and taking into account all relevant facts, that the conditions referred to in sub-section (*1*) would be fulfilled if such amalgamation is effected in accordance with such scheme or, as the case may be, in accordance with such scheme as modified in such manner as that authority may specify, it shall intimate such other company that, after the amalgamation is effected in accordance with such scheme or, as the case may be, such scheme as so modified, it would make (unless there is any material change in the relevant facts) a recommendation to the Central Government under sub-section (*1*).".

Amendment of section 80A.

15. In section 80A of the Income-tax Act, sub-section (*4*) shall be omitted with effect from the 1st day of April, 1979.

Amendment of section 80C.

16. In section 80C of the Income-tax Act, with effect from the 1st day of April, 1979,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount calculated, with reference to the aggregate of the sums specified in sub-section (*2*), at the following rates, namely:—

(*a*) where such aggregate does not exceed Rs. 5,000	The whole of such aggregate;
(*b*) where such aggregate exceeds Rs. 5,000 but does not exceed Rs. 10,000	Rs. 5,000 *plus* 50 per cent. of the amount by which such aggregate exceeds Rs. 5,000;
(*c*) where such aggregate exceeds Rs. 10,000	Rs. 7,500 *plus* 40 per cent. of the amount by which such aggregate exceeds Rs. 10,000.".

(*b*) in sub-section (*4*), in clauses (*ii*) and (*iv*), for the words "twenty thousand rupees", the words "thirty thousand rupees" shall be substituted.

17. In the Income-tax Act, after section 80C, the following section shall be inserted, namely:—

Insertion of new section 80 CC.

Deduction in respect of investment in certain new shares.

'80CC. (1) Where an assessee, being—

(a) an individual, or

(b) a Hindu undivided family, or

(c) an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,

has acquired in the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1979 or any subsequent assessment year), out of his income chargeable to tax, equity shares forming part of any eligible issue of capital, he shall, in accordance with and subject to the provisions of this section, be allowed a deduction in the computation of his total income of an amount equal to fifty per cent. of the cost of such shares to him.

Explanation.—Where in any previous year the assessee has acquired any shares referred to in this sub-section and has, within a period of six months from the end of that previous year paid the whole or a part of the amount, if any, remaining unpaid on such shares, the amount so paid shall be deemed to have been paid by the assessee towards the cost of such shares in that previous year.

(2) Where the aggregate cost to the assessee of the shares referred to in sub-section (1) which are acquired by him in the previous year exceeds ten thousand rupees, the deduction under that sub-section shall be allowed only with reference to such of those shares (being shares the aggregate cost whereof to the assessee does not exceed ten thousand rupees) as are specified by him in this behalf.

(3) For the purposes of this section, "eligible issue of capital" means an issue of equity shares which satisfies the following conditions, namely:—

(a) the issue is made by a public company formed and registered in India with the main object of carrying on the business of—

(i) construction, manufacture or production of any article or thing, not being an article or thing specified in the list in the Eleventh Schedule; or

(ii) providing long-term finance for construction or purchase of houses in India for residential purposes:

Provided that in the case of a public company formed and registered in India with the main object of carrying on the business referred to in sub-clause (ii), such company is approved by the Central Government for the purposes of this section;

(b) the issue is an issue of capital made by the company for the first time;

(c) the shares forming part of the issue are offered for subscription to the public;

(d) such other conditions as may be prescribed:

Provided that in the case of a company which had originally been

incorporated as a private company but has become a public company under the provisions of the Companies Act, 1956, an issue of equity shares made by it for the first time after it has become a public company shall not be regarded as an eligible issue of capital, if— 1 of 1956.

(i) such company had declared, distributed or paid any dividend when it was a private company; or

(ii) any of the shares forming part of such issue is offered for subscription at a premium.

Explanation 1.—If any question arises as to whether any issue of equity shares would constitute an eligible issue of capital for the purposes of this section, the question shall be referred to the Central Government whose decision thereon shall be final.

Explanation 2.—In this sub-section and sub-section (4), "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956. 1 of 1956.

(4) The deduction under sub-section (1) shall not be allowed unless the assessee has—

(i) subscribed to the shares in pursuance of an offer for subscription to the public made by the public company or in pursuance of a reservation or an option in his favour by reason of his being a promoter of the company; or

(ii) purchased the shares from a person who is specified as an underwriter in respect of the issue of such shares in pursuance of clause 11 of Part I of Schedule II to the Companies Act, 1956 and who has acquired such shares by virtue of his obligation as such underwriter. 1 of 1956.

(5) If any equity shares, with reference to the cost of which a deduction is allowed under sub-section (1), are sold or otherwise transferred by the assessee to any person at any time within a period of five years from the date of their acquisition, an amount equal to fifty per cent. of the cost to the assessee of the shares so sold or otherwise transferred shall be deemed to be the income of the assessee of the previous year in which the shares are so sold or transferred and shall be chargeable to tax accordingly.

Explanation.—A person shall be treated as having acquired any shares on the date on which his name is entered in relation to those shares in the register of members of the company.

(6) Where a deduction is claimed and allowed under sub-section (1) with reference to the cost of any equity shares, the cost of such shares shall not be taken into account for the purposes of section 54E.'.

Amendment of section 80P.

18. In section 80P of the Income-tax Act, in sub-section (2), for clause (b), the following clause shall be substituted with effect from the 1st day of April, 1979, namely:—

"(b) in the case of a co-operative society, being a primary society engaged in supplying milk raised by its members to—

(i) a federal milk co-operative society; or

(ii) the Government or a local authority; or

(iii) a Government company as defined in section 617 of the Companies Act, 1956 or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk to the public), 1 of 1956.

the whole of the amount of profits and gains of such business;".

19. In section 155 of the Income-tax Act,— **Amendment of section 155.**

(*a*) after sub-section (7), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

"(7*A*) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed under section 48 and the compensation for such acquisition or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the computation or, as the case may be, computations made earlier shall be deemed to have been wrongly made and the Income-tax Officer shall, notwithstanding anything contained in this Act, recompute in accordance with section 48 the capital gain arising from such transfer by taking the compensation or the consideration as enhanced or further enhanced, as the case may be, to be the full value of the consideration received or accruing as a result of such transfer and shall make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation or consideration was received by the assessee.";

(b) in sub-section (8), for the words and figures "under the provisions of section 54", the words, brackets and figures "under the provisions of sub-section (*1*) of section 54" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1974;

(c) after sub-section (8), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

"(8*A*) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition under any law of any such capital asset as is referred to in section 54 is charged to tax and if the compensation for such acquisition is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and the assessee purchases, within a period of one year after the date of receipt of the additional compensation, or constructs, within a period of two years after that date, a house property for the purposes of his own residence, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (2) of section 54; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation was received by the assessee.";

(d) in sub-section (9), for the words, figures and letter "under the provisions of section 54B", the words, brackets, figures and letter "under the provisions of sub-section (*1*) of section 54B" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1974:

(e) after sub-section (9), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

"(9A) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition under any law of any such capital asset as is referred to in section 54B is charged to tax and if the compensation for such acquisition is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and within a period of two years after the receipt of the additional compensation, the assessee purchases any land for being used for agricultural purposes, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (2) of section 54B; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation was received by the assessee.";

(f) in sub-section (10), for the words, figures and letter "under the provisions of section 54D", the words, brackets, figures and letter "under the provisions of sub-section (1) of section 54D" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1974;

(g) sub-section (10) shall be renumbered and shall be deemed to have been renumbered with effect from the 1st day of April, 1974 as clause (a) of that sub-section and after clause (a) as so renumbered, the following clause shall be inserted and shall be deemed to have been inserted with effect from that date, namely:—

"(b) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition of any such capital asset as is referred to in section 54D is charged to tax and if the compensation for such acquisition is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and within a period of three years after the date of receipt of the additional compensation, the assessee purchases any land or building or any right in any land or building or constructs any building for the purpose of shifting or re-establishing the undertaking referred to in sub-section (1) of that section or setting up any other industrial undertaking, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (2) of section 54D; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the additional compensation was received by the assessee.";

(h) in sub-section (10A) [as directed to be inserted by section 23 of the Finance (No. 2) Act, 1977], for the words, figures and letter "under the provisions of section 54E", the words, brackets, figures and letter "under the provisions of sub-section (1) of section 54E" shall be substituted; 29 of 1971

(*i*) after the said sub-section (*10A*), the following sub-section shall be inserted, namely:—

"(*10B*) Where in the assessment for any year, a capital gain arising from the transfer, being a transfer by way of compulsory acquisition or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, of any capital asset, not being a short-term capital asset, is charged to tax and if the compensation or, as the case may be, consideration for such transfer is enhanced or further enhanced, as the case may be, by any court, tribunal or other authority, and within a period of six months after the receipt of the additional compensation or consideration, the assessee invests or deposits the whole or any part of the additional compensation or consideration in any specified asset referred to in *Explanation 1* of sub-section (*1*) of section 54E, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax under the provisions of sub-section (*3*) of section 54E; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (*7*) of that section being reckoned from the end of the previous year in which the additional compensation or consideration was received by the assessee.";

(*j*) the following *Explanation* shall be inserted at the end and shall be deemed to have been so inserted with effect from the 1st day of April, 1974, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) "additional compensation" shall have the meaning assigned to it in clause (*1*) of the *Explanation* to sub-section (*2*) of section 54;

(*b*) "additional consideration", in relation to the transfer of any capital asset the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, means the difference between the amount of consideration for such transfer as enhanced by any court, tribunal or other authority and the amount of consideration which would have been payable if such enhancement had not been made.'.

Amendment of section 193.

20. In section 193 of the Income-tax Act, in the proviso, after clause (*ia*), the following clause shall be inserted, namely:—

"(*ib*) any interest payable on National Development Bonds; or".

Insertion of new section 194BB.

Winnings from horse race.

21. After section 194B of the Income-tax Act, the following section shall be inserted, namely:—

"194BB. Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race in an amount exceeding two thousand five hundred rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force:

Provided that no deduction shall be made under this section from any payment made before the 1st day of June, 1978.".

Amendment of section 208.

22. In section 208 of the Income-tax Act, in sub-section (*1*), in clause (*b*), for the words, brackets and figures "sub-section (*3*) of section 212", the word, figures and letter "section 209A" shall be substituted with effect from the 1st day of June, 1978.

Amendment of section 209.

23. In section 209 of the Income-tax Act, with effect from the 1st day of June, 1978,—

(*a*) in sub-section (*1*), for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) in cases where an estimate (including a revised estimate) is sent by the assessee under section 209A or section 212, the total income so estimated shall, for the purposes of calculation of tax under this section, be substituted for the total income referred to in clause (*a*);";

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*), in the opening portion, after the words "in cases", the words, brackets, figures and letter "where the assessee sends a statement under sub-section (*1*) of section 209A or" shall be inserted;

(*ii*) in clause (*b*), for the words, brackets, figures and letter "in cases where an estimate is sent by the assessee under sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*3A*) of section 212", the words, brackets, figures and letter "in cases where an estimate (including a revised estimate) is sent by the assessee under section 209A or section 212" shall be substituted.

Insertion of new section 209A.

24. In the Income-tax Act, after section 209, the following section shall be inserted with effect from the 1st day of June, 1978, namely:—

Computation and payment of advance tax by assessee.

'209A. (*1*) Every person shall, in each financial year, before the date on which the first instalment, or where he has not previously been assessed by way of regular assessment under this Act, before the date on which the last instalment, of advance tax is due in his case under sub-section (*1*) of section 211, if his current income is likely to exceed the amount specified in sub-section (*2*) of section 208, send to the Income-tax Officer—

(*a*) where he has been previously assessed by way of regular assessment under this Act, a statement of advance tax payable by him computed in the manner laid down in clause (*a*) or, as the case may be, sub-clause (*i*) of clause (*d*) of sub-section (*1*) of section 209, or

(*b*) where he has not previously been assessed by way of regular assessment under this Act, an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with the statement or, as the case may be, estimate in equal instalments on the dates applicable in his case under section 211.

(2) Where an assessee who is required to send a statement under clause (*a*) of sub-section (*1*) estimates at any time before the date on which the first instalment of advance tax is due in his case under sub-section (*1*) of section 211 that, by reason of his current income being likely to be less than the income on which advance tax is payable by him under sub-section (*1*) or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income would be less than the amount of advance tax payable by him under sub-section (*1*), he may send to the Income-tax Officer, in lieu of such statement, an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate in equal instalments on the dates applicable in his case under section 211.

(3) Where an assessee who has sent a statement under clause (*a*) of sub-section (*1*) estimates at any time before the last instalment of advance tax is due in his case that, by reason of his current income being likely to be less than the income on which advance tax is payable by him under sub-section (*1*) or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income would be less than the amount of advance tax payable by him under sub-section (*1*), he may, at his option, send to the Income-tax Officer an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate in equal instalments on such of the dates applicable in his case under section 211 as have not expired, or in one sum if only the last of such dates has not expired.

(4) In the case of any assessee who is liable to pay advance tax under sub-section (*1*) or sub-section (*2*) or, as the case may be, sub-section (*3*), if, by reason of the current income being likely to be greater than the income on which the advance tax so payable by him has been computed or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income (which shall be estimated by the assessee) exceeds the amount of advance tax so payable by him by more than 33-1/3 per cent. of the latter amount, he shall, at any time before the date on which the last instalment of advance tax is payable by him, send to the Income-tax Officer an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate on such of the dates applicable in his case under section 211 as have not expired, by instalments which may be revised according to sub-section (5):

Provided that in a case where the Commissioner is satisfied that, having regard to the nature of the business carried on by the assessee and the date of expiry of the previous year in respect of such business, it will be difficult for the assessee to furnish the estimate required to be furnished by him in accordance with the provisions of this sub-section before the date on which the last instalment of advance tax is due in his case, he may, if the assessee pays the advance tax which he is liable to pay under sub-section (*1*) or sub-section (*2*) or, as the case may be, sub-section (*3*) before such date, extend the date for furnishing such estimate up to a period of thirty days immediately following the last date of the previous year in respect of that business and, where the date is so extended, the assessee shall pay, on or before the date as so extended, the amount by which the advance tax already paid by him falls short of the advance tax payable in accordance with his estimate.

(*5*) The assessee may send a revised estimate of the advance tax payable by him before any one of the dates specified in section 211 and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(*6*) Every statement or estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

Explanation.—For the purposes of this section and section 212, "current income", in relation to the advance tax payable by an assessee during any financial year, means the total income of the assessee [exclusive of capital gains and income referred to in sub-clause (*ix*) of clause (*24*) of section 2, if any] of the period which would be the previous year for the assessment year immediately following that financial year.'.

Amendment of section 211.

25. In section 211 of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of June, 1978,—

(*a*) in the opening portion, for the words and figures "Subject to the provisions of this section and of section 212", the words, figures and letter "Subject to the provisions of this section and of sections 209A and 212" shall be substituted;

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

'*Explanation.*—In this sub-section, "total income" means,—

(*a*) in a case where the advance tax is paid by the assessee in accordance with the statement sent by him under sub-section (*1*) of section 209A or in accordance with an order of the Income-tax Officer under section 210, the total income with reference to which the advance tax payable has been calculated in such statement or order;

(*b*) in a case where the advance tax is paid in accordance with an estimate (including a revised estimate) made by the assessee under section 209A or section 212, the total income with reference to which the advance tax is so estimated,

as reduced, in either case, by the amount of capital gain and income referred to in sub-clause (*ix*) of clause (*24*) of section 2, if any, included therein.'.

26. In section 212 of the Income-tax Act, with effect from the 1st day of June, 1978,— Amendment of section 212.

(a) in sub-section (1), for the words, brackets and figures "by reason of his total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2, if any] of the period which would be the previous year for the immediately following assessment year (such total income being, hereafter in this section, referred to as current income)", the words "by reason of his current income" shall be substituted;

(b) sub-section (3) shall be omitted.

27. In section 215 of the Income-tax Act, in sub-section (1), for the words and figures "advance tax under section 212 on the basis of his own estimate", the words, figures, letter and brackets "advance tax under section 209A or section 212 on the basis of his own estimate (including revised estimate)" shall be substituted with effect from the 1st day of June, 1978. Amendment of section 215.

28. In section 216 of the Income-tax Act, in clause (a), for the words, brackets, figures and letter "under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212", the words, figures and letter "under section 209A or section 212" shall be substituted with effect from the 1st day of June, 1978. Amendment of section 216.

29. In section 217 of the Income-tax Act, with effect from the 1st day of June, 1978,— Amendment of section 217.

(a) in sub-section (1),—

(i) for the portion beginning with the words "the Income-tax Officer finds that any such person" and ending with the words "twelve per cent. per annum", the following shall be substituted, namely:—

"the Income-tax Officer finds—

(a) that any such person as is referred to in clause (a) of sub-section (1) of section 209A has not sent the statement referred to in that clause or the estimate in lieu of such statement referred to in sub-section (2) of that section; or

(b) that any such person as is referred to in clause (b) of sub-section (1) of section 209A has not sent the estimate referred to in that clause,

simple interest at the rate of twelve per cent. per annum";

(ii) for the words "the said sub-section", the words, brackets and figures "the said sub-section (1) or sub-section (2)" shall be substituted;

(b) in sub-section (1A),—

(i) after the words "the Income-tax Officer finds that", the words, brackets, figures and letter "any person who is required to send an estimate under sub-section (4) of section 209A or" shall be inserted;

(ii) for the words "the said sub-section", the words, brackets, figures and letter "the said sub-section (4) or, as the case may be, sub-section (3A)" shall be substituted.

Substitution of new section for section 218.

30. For section 218 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 1978, namely:—

When assessee deemed to be in default.

"218. (*1*) If any assessee has sent,—

(*a*) under sub-section (*1*) of section 209A, a statement, or

(*b*) under section 209A or section 212, an estimate or a revised estimate,

of the advance tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in section 211, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(*2*) If any assessee does not pay on the specified date any instalment of advance tax that he is required to pay under section 210 and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (*1*) or sub-section (*2*) of section 212 an estimate or a revised estimate of the advance tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), an assessee shall not be deemed to be in default in respect of any amount of which the payment is deferred under section 213 until after the date communicated by him to the Income-tax Officer under that section.".

Amendment of section 273.

31. In the Income-tax Act, with effect from the 1st day of June, 1978, section 273 shall be renumbered as sub-section (*2*) thereof and—

(*1*) before sub-section (*2*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*1*) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee—

(*a*) has furnished under clause (*a*) of sub-section (*1*) of section 209A a statement of the advance tax payable by him which he knew or had reason to believe to be untrue, or

(*b*) has without reasonable cause failed to furnish a statement of the advance tax payable by him in accordance with the provisions of clause (*a*) of sub-section (*1*) of section 209A,

he may direct that such person shall, in addition to the amount of tax, if any, payable by him, pay by way of penalty a sum—

(*i*) which, in the case referred to in clause (*a*), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of—

(*1*) seventy-five per cent. of the assessed tax as defined in sub-section (*5*) of section 215, or

(2) the amount which would have been payable by way of advance tax if the assessee had furnished a correct and complete statement in accordance with the provisions of clause (*a*) of sub-section (*1*) of section 209A,

whichever is less;

(*ii*) which, in the case referred to in clause (*b*), shall not be less than ten per cent. but shall not exceed one and a half times of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215.";

(2) in sub-section (*2*) as so renumbered,—

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

"(*a*) has furnished under sub-section (*1*) or sub-section (2) or sub-section (*3*) or sub-section (5) of section 209A, or under sub-section (*1*) or sub-section (*2*) of section 212, an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or";

(*b*) in clause (*aa*), after the words "has furnished", the words, brackets, figures and letter "under sub-section (*4*) of section 209A or" shall be inserted;

(*c*) in clause (*b*), for the words, brackets and figures "sub-section (*3*) of section 212", the words, brackets, letters and figures "clause (*b*) of sub-section (*1*) of section 209A" shall be substituted;

(*d*) in clause (*c*), for the words, brackets, figures and letter "sub-section (*3A*) of section 212", the words, brackets, figures and letters "sub-section (*4*) of section 209A or sub-section (*3A*) of section 212" shall be substituted;

(*e*) for sub-clause (*2*) of clause (*i*), the following sub-clause shall be substituted, namely:—

"(*2*) where a statement under clause (*a*) of sub-section (*1*) of section 209A was furnished by the assessee or where a notice under section 210 was issued to the assessee, the amount payable under such statement or, as the case may be, such notice,";

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

"(*iii*) which, in the case referred to in clause (*c*), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which—

(*a*) where the assessee has sent a statement under clause (*a*), or an estimate under clause (*b*), of sub-section (*1*) of section 209A, or an estimate in lieu of a statement under sub-section (*2*) of that section, the tax payable in accordance with such statement or estimate; or

(*b*) where the assessee was required to pay advance tax in accordance with the notice issued to him under section 210, the tax payable under such notice,

falls short of seventy-five per cent. of the assessed tax as defined in sub-section (5) of section 215.";

Consequential amendments to certain sections.

(*g*) in the *Explanation*, for the words, brackets, figures and letter "proviso to sub-section (*3A*) of section 212", the words, brackets, figures and letters "proviso to sub-section (4) of section 209A or, as the case may be, proviso to sub-section (*3A*) of section 212" shall be substituted.

32. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely:—

(*a*) in sub-clause (*ii*) of clause (*37A*) of section 2 and in clause (*a*) of sub-section (*1*) of section 197, for the figures and letter "194,", the figures and letters "194B, 194BB," shall be substituted;

(*b*) in sections 198, 199, 200, 202, 203, 204 and 205, for the word, figures and letter "section 194B,", the words, figures and letters "section 194B, section 194BB," shall be substituted.

Interest-tax

Amendment of Act 45 of 1974.

33. In the Interest-tax Act, 1974, in sub-section (2) of section 6, for the words, figures and letters "before the 1st day of August, 1974", the words, figures and letters "before the 1st day of August, 1974 or after the 28th day of February, 1978" shall be substituted with effect from the 1st day of April, 1979.

CHAPTER IV

INDIRECT TAXES

Amendment of Act 51 of 1975.

34. In the First Schedule to the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

(*i*) after the existing entry in column (3), against sub-heading No. (2) of Heading No. 37.01/08, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of this sub-heading, where a film is designed with a view to different vertical sections thereof being exposed separately, its length shall be deemed to be the aggregate of the lengths of all such sections.";

(*ii*) in Heading No. 51.01/03, for the entry in column (3), the entry "200% *plus* Rs. 30 per kilogram" shall be substituted.

Auxiliary duties of customs.

35. (*1*) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to twenty per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962 (hereinafter referred to as the Customs Act). 52 of 1962.

(*2*) Sub-section (*1*) shall cease to have effect after the 31st day of March, 1979, except as respects things done or omitted to be done before

10 of 1897. such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

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

Amendment of Act 1 of 1944.

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

(i) in Item No. 8, the *Explanation* shall be numbered as *Explanation I* and after the *Explanation* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation II.*—This Item does not include—

(a) base mineral oils (suitable for use in the manufacture of lubricating oils and greases) including mineral oils commonly known as Transformer oil base stock or Transformer oil feed stock; and

(b) lubricating oils including spindle oils, flushing oils and jute batching oils.";

(ii) in Item No. 10, the *Explanation* shall be numbered as *Explanation I* and after the *Explanation* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation II.*—This Item does not include—

(a) base mineral oils suitable for use in the manufacture of lubricating oils and greases; and

(b) lubricating oils including axle oil.";

(iii) in Item No. 11A, sub-item (4) shall be renumbered as sub-item (5) and before sub-item (5) as so renumbered, the following sub-item shall be inserted, namely:—

"(4) (a) Base mineral oils (suitable for use in the manufacture of lubricating oils and greases) including mineral oils commonly known as Transformer oil base stock or Transformer oil feed stock;	Three thousand and five hundred rupees per metric tonne.
(b) Lubricating oils (including spindle oils, flushing oils, jute batching oils and axle oil) and lubricating greases.	Three thousand and five hundred rupees per metric tonne.".

(*iv*) after Item No. 11C, the following Items shall be inserted, namely:—

"11D. COAL (EXCLUDING LIGNITE), AND COKE NOT ELSEWHERE SPECIFIED.	Ten rupees per metric tonne.
11E. ELECTRICITY.	Two paise per kilowatt-hour.";

(*v*) in Item No. 18, after sub-item III, the following sub-item shall be inserted, namely:—

"IV. NON-CELLULOSIC WASTES, ALL SORTS.	Nine rupees per kilogram.";

Explanation.—This Item includes only wastes arising in, or in relation to, the manufacture of man-made fibres (other than mineral fibres) and man-made filament yarns.

(*vi*) in Item No. 19 III, for the entry in the third column, the entry "The duty for the time being leviable on the base fabrics, if not already paid, *plus* thirty per cent. *ad valorem.*" shall be substituted;

(*vii*) in Item No. 22(3), for the entry in the third column, the entry "The duty for the time being leviable on the base fabrics, if not already paid, *plus* thirty per cent. *ad valorem.*" shall be substituted;

(*viii*) in Item No. 22B, for the entry in the third column, the entry "Thirty per cent. *ad valorem.*" shall be substituted;

(*ix*) in Item No. 34,—

(*a*) for the words "MOTOR VEHICLES AND TRACTORS—", the words "MOTOR VEHICLES AND TRACTORS, INCLUDING TRAILERS—" shall be substituted;

(*b*) after sub-item II, the following sub-item shall be inserted, namely:—

"III. Trailers.	Twelve and half per cent. *ad valorem.*";

(*c*) for *Explanation I*, the following *Explanation* shall be substituted, namely:—

'*Explanation I.*—"Motor vehicle", "Tractor, including agricultural tractor" and "Trailer" shall include a chassis; but shall not include a vehicle running upon fixed rails.';

(*x*) for Item No. 34A, the following Item shall be substituted, namely:—

'34A. PARTS AND ACCESSORIES, NOT ELSEWHERE SPECIFIED, OF MOTOR VEHICLES AND TRACTORS, INCLUDING TRAILERS.	Twenty per cent. *ad valorem.*';

Explanation I.—The expression "motor vehicles" has the meaning assigned to it in Item No. 34.

Explanation II.—The expression "Tractors" shall include agricultural tractors.

(*xi*) in Item No. 68, for the entry in the third column, the entry "Five per cent. *ad valorem*." shall be substituted.

Special duties of excise.

37. (*1*) In the case of goods chargeable with a duty of excise under the Central Excises Act as amended from time to time, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable, there shall be levied and collected a special duty of excise equal to five per cent. of the amount so chargeable on such goods.

(*2*) Sub-section (*1*) shall cease to have effect after the 31st day of March, 1979, except as respects things done or omitted to be done before such cesser, and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

10 of 1897.

(*3*) The special duties of excise referred to in sub-section (*1*) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force.

(*4*) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the special duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

Discontinuance of salt duty.

38. For the year beginning on the 1st day of April, 1978, no duty under the Central Excises Act or the Customs Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

CHAPTER V

MISCELLANEOUS

Amendment of Act 6 of 1898.

39. In the First Schedule to the Indian Post Office Act, 1898,—

(*a*) for the sub-heading "Letters" and the entries thereunder, the following shall be substituted, namely:—

"*Letters*

For a weight not exceeding ten grams	25 paise.
For every ten grams or fraction thereof, exceeding ten grams	15 paise.";

(*b*) for the sub-headings "*Post cards*", "*Book, Pattern and Sample packets*" and "*Registered Newspapers*" and the entries under those sub-headings, the following shall be substituted, namely:—

"*Post cards (not being Post cards containing printed communication)*

Single	15 paise.
Reply	30 paise.

Post cards containing printed communication

For a post card 20 paise.

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the righthand half of the address-side thereof.

Book, Pattern and Sample packets

For the first fifty grams or fraction thereof 25 paise.

For every additional twenty-five grams or fraction thereof, in excess of fifty grams 15 paise.

Registered Newspapers

For a weight not exceeding fifty grams 2 paise.

For a weight exceeding fifty grams but not exceeding one hundred grams 5 paise.

For every additional one hundred grams or fraction thereof, exceeding one hundred grams 10 paise.

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

for a weight not exceeding one hundred grams 5 paise;

for every additional one hundred grams or fraction thereof, in excess of one hundred grams 10 paise:

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office".

Amendment of Act 38 of 1974.

40. In the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974,—

(*a*) in section 4,—

(*A*) in sub-section (*1*),—

(*1*) in clause (*i*), the word "and", occurring at the end, shall be omitted;

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

"(*ii*) for the assessment year commencing on the 1st day of April, 1977 and the assessment year commencing on the 1st day of April, 1978, at the rates specified in Paragraph B of the Schedule; and

(*iii*) for the assessment year commencing on the 1st day of April, 1979, at the rates specified in Paragraph C of the Schedule.";

(*B*) in sub-section (*3*),—

(*1*) in clause (*a*), for the portion beginning with the words "in a case where the Income-tax Officer" and ending with the words and figures "section 212 of that Act", the following shall be substituted, namely:—

"in a case where a statement is sent by the person under clause (*a*) of sub-section (*1*) of section 209A of the Income-tax Act in the financial year immediately preceding that assessment year or where the Income-tax Officer has made an order under sub-section (*1*) or sub-section (*3*) of section 210 of that Act requiring the person to pay advance tax during the financial year immediately preceding that assessment year and the person has not sent an estimate under section 209A or, as the case may be, section 212 of that Act";

(*2*) in clause (*b*), for the words, brackets, figures and letter "sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*3A*) of section 212", the words, figures and letter "section 209A or section 212" shall be substituted;

(*b*) in section 5, in clause (*a*), for the word and figures "section 211", the words, figures, brackets and letter "section 211 or sub-section (*4*) of section 209A" shall be substituted;

(*c*) in the Schedule, for the proviso, the following shall be substituted, namely:—

"*Paragraph* C

(*i*) where the current income exceeds Rs. 15,000 but does not exceed Rs. 25,000	4.5 per cent. of the current income;
(*ii*) where the current income exceeds Rs. 25,000 but does not exceed Rs. 35,000	Rs. 1,125 *plus* 11 per cent. of the amount by which the current income exceeds Rs. 25,000;
(*iii*) where the current income exceeds Rs. 35,000 but does not exceed Rs. 70,000	Rs. 2,225 *plus* 12.5 per cent. of the amount by which the current income exceeds Rs. 35,000;
(*iv*) where the current income exceeds Rs. 70,000	Rs. 6,600 *plus* 15 per cent. of the amount by which the current income exceeds Rs. 70,000:

Provided that—

(*a*) in a case falling under Paragraph A or Paragraph B, where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,620, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000;

(*b*) in a case falling under Paragraph C, where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,710, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000;

(*c*) where the amount of compulsory deposit calculated in accordance with the foregoing provisions is less than Rs. 100, it shall not be necessary for the taxpayer concerned to make such deposit.".

THE SCHEDULE

(*See* section 2)

PART I

INCOME-TAX AND SURCHARGE ON INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or 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 Sub-Paragraph II of this Paragraph or any other Paragraph of this part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil;*
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	15 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,050 *plus* 18 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 1,950 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,200 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 4,700 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 12,700 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000	Rs. 22,700 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 70,000;
(9) where the total income exceeds Rs. 1,00,000	Rs. 39,200 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Provided that for the purposes of this Sub-Paragraph,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 10,000;

(*ii*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 10,540, the income-tax payable thereon shall not exceed seventy per cent. of the amount by which the total income exceeds Rs. 10,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the

previous year relevant to the assessment year commencing on the 1st day of April, 1978 exceeds Rs. 10,000.

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil*;
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	18 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,260 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,510 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 4,010 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 6,010 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 16,010 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000	Rs. 27,010 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 70,000:

Provided that for the purposes of this Sub-Paragraph,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 10,000;

(*ii*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 10,690, the income-tax payable thereon shall not exceed seventy per cent. of the amount by which the total income exceeds Rs. 10,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 4,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil*;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 *plus* 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 *plus* 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil*;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	4 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 600 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,350 *plus* 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 8,850 *plus* 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Explanation.—For the purposes of this Paragraph "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	50 per cent.

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 calculated at the rate of fifteen per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs. 1,00,000	45 per cent. of the total income;
(*ii*) in a case where the total income exceeds Rs. 1,00,000	55 per cent. of the total income;
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company,—	
(*a*) where the total income does not exceed Rs. 2,00,000	55 per cent. of the total income;
(*b*) where the total income exceeds Rs. 2,00,000	60 per cent. of the total income;
(*ii*) in any other case	65 per cent. of the total income:

Provided that—

(*i*) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income

included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000;

(*ii*) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company,—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(*ii*) on the balance, if any, of the total income	70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of ~~the~~ this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 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	
	Rate of income-tax	Rate of surcharge
1. In the case of a person other than a company—		
(*a*) where the person is resident in India—		
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.	*Nil;*
(*ii*) on income by way of winnings from lotteries and crossword puzzles	30 per cent.	4.5 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.	4.5 per cent.;
(*iv*) on income by way of insurance commission	10 per cent.	*Nil;*
(*v*) on any other income (excluding interest payable on a tax-free security)	20 per cent.	3 per cent.;
(*b*) where the person is not resident in India—		
(*i*) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent. and surcharge at 4.5 per cent. of the amount of the income, or income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;	
(*ii*) on income by way of interest payable on a tax-free security	15 per cent.	2.25 per cent.
2. In the case of a company—		
(*a*) where the company is a domestic company—		
(*i*) on income by way of interest other than "Interest on securities"	20 per cent.	1 per cent.;
(*ii*) on any other income (excluding interest payable on a tax-free security)	22 per cent.	1 per cent.;

	Income-tax	
	Rate of income-tax	Rate of surcharge
(b) where the company is not a domestic company—		
(i) on income by way of dividends payable by any domestic company	25 per cent.	Nil;
(ii) on income by way of royalty payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern	40 per cent.	Nil;
(iii) on income by way of royalty [not being royalty of the nature referred to in sub-item (b) (ii)] payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government,—		
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.	2.5 per cent.;
(B) where the agreement is made after the 31st day of March, 1976—		
(1) on so much of the amount of such income as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating	20 per cent.	Nil.;

	Income-tax	
	Rate of income-tax	Rate of surcharge
to any patent, invention, model, design, secret formula or process, or trade mark or similar property		
(2) on the balance, if any, of such income	40 per cent.	Nil.;
(iv) on income by way of fees for technical services payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government—		
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.	2.5 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	40 per cent.	Nil.;
(v) on income by way of interest payable on a tax-free security	44 per cent.	2.2 per cent.;
(vi) on any other income	70 per cent.	3.5 per cent.

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax".

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under Chapter XII or section 164 of the Income-tax Act

at the rates as specified in that Chapter or section), shall be so calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or 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 Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil*;
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	15 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,050 *plus* 18 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 1,950 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,200 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 4,700 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 12,700 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000	Rs. 22,700 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 70,000;
(9) where the total income exceeds Rs. 1,00,000	Rs. 39,200 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 1,00,000;

Provided that for the purposes of this Sub-Paragraph,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 10,000;

(*ii*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 10,540, the income-tax payable thereon shall not exceed seventy per cent. of the amount by which the total income exceeds Rs. 10,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for

purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1979 exceeds Rs. 10,000,—

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil;*
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	18 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,260 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,510 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 4,010 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 6,010 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 16,010 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000	Rs. 27,010 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 70,000:

Provided that for the purposes of this Sub-Paragraph,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 10,000;

(*ii*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 10,690, the income-tax payable thereon shall not exceed seventy per cent. of the amount by which the total income exceeds Rs. 10,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent. of the total income;

(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 4,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil;*
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 *plus* 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 *plus* 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil;*
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	4 per cent. of the amount by which the total income exceeds Rs. 10,000;

(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 600 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,350 *plus* 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000.	Rs. 8,850 *plus* 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Explanation.—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	50 per cent.

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 calculated at the rate of fifteen per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(*1*) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs. 1,00,000	45 per cent. of the total income;
(*ii*) in a case where the total income exceeds Rs. 1,00,000	55 per cent. of the total income;
(*2*) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company,—	
(*a*) where the total income does not exceed Rs. 2,00,000	55 per cent. of the total income;
(*b*) where the total income exceeds Rs. 2,00,000	60 per cent. of the total income;
(ii) in any other case.	65 per cent. of the total income;

Provided that—

(*i*) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000;

(*ii*) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company,—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(*ii*) on the balance, if any, of the total income	70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

PART IV

[*See section* 2 (7) (*e*)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (*3*) and (*4*) thereof], 41, 43 and 43A of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of the said section 23 shall apply subject to the modifications that the references to "total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VIA" shall be omitted.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not

been assessed as a registered firm under clause (*b*) of the said section 183 and which in the previous year has either no income chargeble to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (*1*), sub-section (*2*) and sub-section (*3*) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 7.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act or is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1978, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977, is a loss, then, for the purposes of sub-section (*2*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976 or the 1st day of April, 1977,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1977, and

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1977,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1978.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1979 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978, is a loss, then, for the purposes of sub-section (6) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the 1st day of April, 1978,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1977, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, and

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1979 or the period aforesaid.

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (*1*), sub-section (*2*) and sub-section (*3*) of section 67 of the Income-tax Act as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(*4*) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1974, or of the First Schedule to Finance Act, 1975, or of the First Schedule to the Finance Act, 1976, or of the First Schedule to the Finance (No. 2) Act, 1977, shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*). 20 of 1974. 25 of 1975. 66 of 1976. 29 of 1977.

Rule 10.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

Rule 11.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12.—For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE BANKING SERVICE COMMISSION (REPEAL) ACT, 1978

No. 20 OF 1978

[18*th May*, 1978]

An Act to repeal the Banking Service Commission Act, 1975.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Banking Service Commission (Repeal) Act, 1978. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 19th day of September, 1977.

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

(*a*) "appointed day" means the 19th day of September, 1977;

(*b*) "Banking Service Commission" means the Banking Service Commission established under section 3 of the Banking Service Commission Act, 1975. 42 of 1975.

3. On the appointed day the Banking Service Commission Act, 1975, shall stand repealed and the Banking Service Commission shall stand dissolved. Repeal of Act 42 of 1975 and the dissolution of the Banking Service Commission.

4. On the dissolution of the Banking Service Commission,— Consequential provisions.

(*a*) (*i*) the person appointed as the Chairman of the Banking Service Commission; and

(*ii*) every other person appointed by the Banking Service Commission,

and holding office as such immediately before the appointed day shall vacate their respective offices and no such Chairman or other person shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service;

(*b*) any proceeding of whatever nature pending before the Banking Service Commission immediately before the appointed day shall stand terminated;

(*c*) the balance of all monies (including any fee) received by, or advanced to, the Banking Service Commission and not spent by it

before the appointed day shall, on the appointed day, stand transferred to, and shall vest in, the Central Government and shall be utilised for the purposes of clauses (*e*) and (*f*);

(*d*) all property of whatever kind owned by, or vested in, the Banking Service Commission immediately before the appointed day, shall, on the appointed day, stand transferred to, and shall vest in, the Central Government;

(*e*) all liabilities and obligations of whatever kind incurred by the Banking Service Commission and subsisting immediately before the appointed day shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the Central Government; and any proceeding or cause of action, pending or existing immediately before the appointed day by or against the Banking Service Commission in relation to such liability or obligation may, as from the appointed day, be continued or enforced by or against the Central Government.

Explanation.—For the purposes of this clause, "liability" does not include any liability for any money advanced to the Banking Service Commission under sub-section (*3*) of section 19 of the Banking Service Commission Act, 1975; 42 of 1975.

(*f*) all monies vested in the Central Government under clause (*c*) shall, after deducting the amount incurred for discharging the liabilities and obligations under clause (*e*), be refunded by the Central Government to each public sector bank as defined in clause (*h*) of section 2 of the Banking Service Commission Act, 1975, in proportion to the amount advanced by such public sector bank to the Banking Service Commission under sub-section (*3*) of section 19 of that Act. 42 of 1975.

Savings.

5. (*1*) Anything done or any action taken under the Banking Service Commission (Repeal) Ordinance, 1977, which ceased to operate, shall be deemed to have been done or taken under the corresponding provisions of this Act. 10 of 1977.

(*2*) Nothing in this Act shall be deemed to affect the right of the Chairman of the Banking Service Commission or of any other person appointed by the said Commission to receive salary, allowances or other benefits, in accordance with the terms and conditions of service applicable to him, for the period from the date of cesser of operation of the said Ordinance till the date on which this Act receives the assent of the President (both days inclusive).

NOT CORRECTED: SEE INDIA CODE
Vol. V-A Pt. V p. 349

THE DEPOSIT INSURANCE CORPORATION (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 1978

No. 21 OF 1978

[27th May, 1978]

An Act to provide for the acquisition and transfer of the undertaking of the Credit Guarantee Corporation of India Limited in order to serve better the need for providing credit guarantee to commercial banks, and further to amend the Deposit Insurance Corporation Act, 1961, and the Reserve Bank of India Act, 1934, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act; and any reference in any provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Definitions.

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

(a) "Company" means the Credit Guarantee Corporation of India Limited, a Company formed and registered under the Companies Act, 1956, and having its registered office at Bombay;

1 of 1956.

(b) "Corporation" means the Deposit Insurance Corporation established under sub-section (1) of section 3 of the Deposit Insurance Corporation Act, 1961;

47 of 1961.

(c) "re-named Corporation" means the Corporation as re-named in accordance with the provisions of section 4;

(d) words and expressions used in this Act and not defined but defined in the Deposit Insurance Corporation Act, 1961, shall have the meanings respectively assigned to them in that Act.

47 of 1961.

CHAPTER II

ACQUISITION AND TRANSFER OF UNDERTAKING OF THE CREDIT GUARANTEE CORPORATION OF INDIA LIMITED

Undertaking of the Company to vest in the Corporation.

3. (*1*) On the commencement of this Act, the undertaking of the Company shall stand transferred to, and shall vest in, the Corporation.

(*2*) The undertaking of the Company shall be deemed to include all assets, business, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were, immediately before the commencement of this Act, in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Company in relation to its undertaking.

Merger of the undertaking of the Company with the undertaking of the Corporation.

4. (*1*) On the transfer to, and vesting in, the Corporation of the undertaking of the Company, such undertaking shall be deemed to have merged with the undertaking of the Corporation and, consequent on such merger, the Corporation shall be re-named as the Deposit Insurance and Credit Guarantee Corporation, and thereupon any reference to the Deposit Insurance Corporation or to the Credit Guarantee Corporation of India Limited, in the Deposit Insurance Corporation Act, 1961, or in any other law for the time being in force or in any instrument or other document in force immediately before such transfer and vesting, and to which either the Deposit Insurance Corporation or the Credit Guarantee Corporation of India Limited is a party or which is in favour of either of them, shall be construed as a reference to the Deposit Insurance and Credit Guarantee Corporation. 47 of 1961.

(*2*) The change of name of the Deposit Insurance Corporation, by virtue of the provisions of sub-section (*1*), shall not—

(*a*) affect any right or obligation of that Corporation, subsisting immediately before the commencement of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978;

(*b*) render defective any suit or other legal proceeding pending, immediately before such commencement, by or against that Corporation in its former name; and

(*c*) affect the institution or commencement of any suit or other legal proceeding which could have been instituted or commenced, before such commencement, by or against the Corporation in its former name, and every such suit or legal proceeding may be instituted or commenced, after the commencement of this Act, by or against the re-named Corporation.

NOT CORRECTED: SEE INDIA CODE
Vol. V-A, Pt. V, p. 349

General effect of merger.

5. (1) Unless otherwise expressly provided by this Act, all the assets, obligations and liabilities, respectively, of the Corporation, or the Company, and all contracts, deeds, bonds, agreements, guarantees, indemnities, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Act and to which either the Corporation or the Company is a party or which are in favour of either the Corporation, or the Company shall be of as full force and effect against or in favour of the re-named Corporation, and may be enforced or acted upon as fully and effectually as if in place of the Corporation or the Company, as the case may be, the re-named Corporation had been a party thereto or as if they had been issued in favour of the re-named Corporation.

(2) If, immediately before the commencement of this Act, any suit, appeal or other proceeding of whatever nature, in relation to any business of the undertaking of the Corporation or of the Company, instituted or preferred by or against the Corporation or the Company, is pending, the same shall not abate, be discontinued or be in any way prejudicially affected, by reason of the transfer of the undertaking of the Company to the Corporation or the merger of the undertaking of the Company with the undertaking of the Corporation, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the re-named Corporation.

Payment of amount.

6. (1) For the transfer to, and vesting in, the Corporation, under section 3, of the undertaking of the Company, there shall be given by the Corporation to the Company an amount of rupees two crores.

(2) The amount specified in sub-section (1) shall be given, in cash, within thirty days from the commencement of this Act and such amount shall carry interest at the rate of four per cent. per annum from such commencement till the date on which the amount is paid to the Company:

Provided that if the amount specified in sub-section (1) is paid within seven days from the commencement of this Act, no interest shall be payable.

Power of Central Government to authorise a person or body of persons to take over the management of the Company.

7. (1) The Central Government may, at any time after the commencement of this Act, authorise a person or body of persons to take over the management of the affairs of the Company; and, when any person or body of persons is so authorised, it shall be the duty of such person or body of persons to bring the operations of the Company to a close, realise the amount payable to the Company under section 6, and distribute such amount amongst the creditors of the Company in due course of administration and, if there is a surplus, amongst the contributories of the Company in accordance with their rights and interests and, after such realisation and distribution, to obtain an order of the Central Government for the dissolution of the Company.

(2) For the purposes of sub-section (1), the person or body of persons authorised under that sub-section shall have such of the powers and

duties of the Official Liquidator, appointed under the Companies Act, 1956, as are necessary to give effect to the provisions of that sub-section as if the Company were being wound up by the court, and, for this purpose, the provisions of the Companies Act, 1956, shall apply subject to the modification that for the word "Court", wherever it occurs, the words "Central Government" shall be substituted. 1 of 1956.

(3) When any person or body of persons is authorised by the Central Government under sub-section (1), to take over the management of the affairs of the Company,—

(a) the provisions of the Companies Act, 1956, or of any other law for the time being in force or any instrument having effect by virtue of any such Act or other law shall, in so far as they are inconsistent with the provisions of this Act, cease to apply to, or in relation to, the Company; 1 of 1956.

(b) all persons in charge of the management, including any person holding office as manager, director or secretary of the Company, immediately before the authorisation of such person or body of persons, shall be deemed to have vacated their offices as such.

(4) As soon as the affairs of the Company have been wholly wound up, the person or body of persons, authorised under sub-section (1), shall submit his or their duly audited final accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Company.

(5) The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts as audited, if satisfied that the affairs of the Company have been wholly wound up, make an order that the Company be dissolved from the date of the order and the Company shall stand dissolved accordingly.

(6) The Central Government may also make an order relating to—

(a) the application, subject to the provisions of the Companies Act, 1956, of the balance in the hands of the person or body of persons authorised under sub-section (1); or 1 of 1956.

(b) the payment of such balance into the general revenue account of the Central Government; and

(c) the disposal of the books and papers of the Company.

(7) A copy of the order made by the Central Government for the dissolution of the Company shall be filed by the re-named Corporation with the Registrar of Companies within thirty days from the date of such order and the Registrar of Companies shall give effect to the said order as if it were an order made by the court for the dissolution of the Company.

(8) The provisions of this section shall have effect notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force. 1 of 1956.

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CHAPTER III

AMENDMENTS TO THE DEPOSIT INSURANCE CORPORATION ACT, 1961

Amendment of the Deposit Insurance Corporation Act, 1961.

47 of 1961.

8. On the commencement of this Act, the Deposit Insurance Corporation Act, 1961, shall have effect subject to the following amendments, namely:—

(1) in the long title, after the words "insurance of deposits", the words "and guaranteeing of credit facilities" shall be inserted;

(2) in section 1, in sub-section (1), for the words "the Deposit Insurance Corporation", the words "the Deposit Insurance and Credit Guarantee Corporation" shall be substituted;

(3) in section 2,—

(i) in clause (e), for the words "the Deposit Insurance Corporation", the words "the Deposit Insurance and Credit Guarantee Corporation" shall be substituted;

(ii) after clause (ee), the following clause shall be inserted, namely:—

'(eea) "credit institution" means all or any of the following, namely:—

(i) a banking company;

(ii) a corresponding new bank;

(iii) a Regional Rural Bank;

(iv) a co-operative bank;

(v) a financial institution;';

(iii) after clause (hh), the following clause shall be inserted, namely:—

'(hha) "financial institution" means any financial institution within the meaning of clause (c) of section 45I of the Reserve Bank of India Act, 1934;';

2 of 1934.

(4) in section 3, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Any reference in this Act to the Deposit Insurance Corporation shall, on and from the date on which Chapter II of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978, comes into force, be construed as a reference to the Deposit Insurance and Credit Guarantee Corporation.";

(5) in section 4,—

(i) in sub-section (1), for the words "five crores", the words "fifteen crores" shall be substituted;

(ii) in sub-section (2), for the words "authorised capital", the words "issued capital" shall be substituted;

(6) in section 6, in sub-section (1),—

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

"(a) the Governor, for the time being, of the Reserve Bank or, if the Reserve Bank, in pursuance of the decision of the Committee of the Central Board of Directors of that Bank, nominates any Deputy Governor for the purpose, the Deputy Governor so nominated, who shall be the Chairman of the Board;";

(ii) after clause (d), the following clause shall be inserted, namely:—

"(e) four directors, nominated by the Central Government in consultation with the Reserve Bank, having special knowledge or practical experience in respect of accountancy, agriculture and rural economy, banking, co-operation, economics, finance, law or small-scale industry or any other matter, the special knowledge of, and practical experience in which, is likely, in the opinion of the Central Government, to be useful to the Corporation.";

(7) in section 15,—

(i) in sub-section (1), for the words "with the previous approval of the Central Government, be notified by the Corporation in the Official Gazette from time to time:", the words "with the previous approval of the Reserve Bank, be notified by the Corporation, from time to time, to the insured banks and different rates may be notified for different categories of insured banks:" shall be substituted;

(ii) in sub-section (3), for the words "not exceeding eight per cent. per annum as may be prescribed", the words "not exceeding eight per cent. over and above the bank rate as may be prescribed" shall be substituted;

(8) after section 15, the following new section shall be inserted, namely:—

Cancellation of registration of an insured bank for non-payment of premium.

"15A. (1) The Corporation may cancel the registration of an insured bank if it fails to pay the premium for three consecutive periods:

Provided that no such registration shall be cancelled except after giving to the concerned bank one month's notice in writing calling upon that bank to pay the amount in default.

(2) The Corporation may restore the registration of a bank whose registration has been cancelled under sub-section (1), if the concerned bank requests the Corporation to restore the registration and pays all the amounts due by way of premia from the date of default till the date of payment together with interest due thereon on the date of payment:

Provided that the Corporation shall not restore the registration unless it is satisfied, on an inspection of the concerned bank or otherwise, that it is eligible to be registered as an insured bank.";

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(9) after Chapter III, the following Chapter shall be inserted, namely:—

'CHAPTER III-A

CREDIT GUARANTEE FUNCTIONS

Guaranteeing of credit facilities and indemnifying credit institutions.

21A. (1) The Corporation may guarantee credit facilities given by any credit institution and may also indemnify credit institutions in respect of credit facilities granted by them.

(2) The Board may, for the purpose of guaranteeing credit facilities granted by credit institutions or indemnifying credit institutions, frame one or more schemes in such form and in such manner and containing such provisions as the Board may, from time to time, deem fit.

(3) The Board may levy, on every credit institution availing itself of the guarantees or indemnities provided by the Corporation, a fee at such rate or rates as may, with the previous approval of the Reserve Bank, be notified by the Corporation to the credit institutions from time to time and different rates may be notified for different categories of credit institutions, for different types of credit facilities, for different areas where the credit facilities are utilised, or for different categories of beneficiaries of the credit facilities.

Explanation.—"Credit facility" means any financial assistance, including a loan or advance, cash credit, overdraft, bills purchased or discounted, a term of instalment credit and any guarantee other than a performance guarantee, granted or issued in India by a credit institution at any of its offices in India.

Corporation to act as agent of Central Government.

21B. The Corporation may act as agent for the Central Government,—

(i) in guaranteeing the due performance by any small-scale industrial concern or other institution or undertaking or categories of institutions or undertakings approved by the Central Government in this behalf, of its, or their, obligations to any credit institution in respect of loans and advances made or other credit facilities provided to it, or them, by such credit institution, and

(ii) in making, as such agent, of payments in connection with such guarantee.';

(10) for section 22, the following section shall be substituted, namely:—

Funds of Corporation.

"22. The Corporation shall maintain three funds, to be called, respectively, the Deposit Insurance Fund, the Credit Guarantee Fund and the General Fund.";

(11) in section 23,—

(i) in sub-section (1), in clause (d), after the words "General Fund", the words "or the Credit Guarantee Fund" shall be inserted;

(*ii*) in sub-section (*2*),—

(*a*) in clause (*b*), the word "and", occurring at the end, shall be omitted;

(*b*) in clause (*c*), the word "; and" shall be added at the end;

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

"(*d*) to meet the whole or any part of the liability on account of the depreciation in assets, contributions to staff superannuation and other funds or other expenses incurred or to be incurred by the Corporation as may be decided by the Board.";

(*12*) after section 23, the following new section shall be inserted, namely:—

Credit Guarantee Fund.

"23A. (*1*) To the Credit Guarantee Fund shall be credited,—

(*a*) all amounts in the Reserve for unexpired Guarantee Risks maintained by the Credit Guarantee Corporation of India Limited, a company formed and registered under the Companies Act, 1956, and having its registered office at Bombay; 1 of 1956.

(*b*) all amounts received by the Corporation as fees for guarantees and indemnities taken over or given by it;

(*c*) all amounts received by the Corporation in respect of guarantees and indemnities taken over or given by it;

(*d*) all amounts transferred to that Fund from the Deposit Insurance Fund or the General Fund under section 27; and

(*e*) all income arising from the investments made out of that Fund.

(*2*) The said Fund shall be applied—

(*a*) to make payments in respect of guarantees and indemnities taken over or issued by the Corporation;

(*b*) to meet any liability in respect of the amount referred to in clause (*d*) of sub-section (*1*); and

(*c*) to meet the whole or any part of the liability on account of depreciation in assets, contributions to staff and superannuation and other funds, or other expenses incurred or to be incurred by the Corporation, as may be decided by the Board.";

(*13*) in section 24,—

(*i*) after the words and figures "of section 23", the words, brackets, figures and letter "or in sub-section (*1*) of section 23A" shall be inserted; and

(*ii*) for the words "of that section", the words, figures, brackets and letter "of section 23, or, as the case may be, sub-section (*2*) of section 23A" shall be substituted;

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(14) in section 25, after the words "Deposit Insurance Fund", the words "or the Credit Guarantee Fund" shall be inserted;

(15) after section 25, the following new section shall be inserted, namely:—

"25A. Notwithstanding anything contained in this Act, the Board may—

(a) transfer any amount from the Deposit Insurance Fund to the Credit Guarantee Fund or from the Credit Guarantee Fund to the Deposit Insurance Fund, or

(b) utilise any money standing to the credit of either of the said Funds, for such purposes as it may think fit, if it is satisfied that the balance in the Fund, after such transfer or utilization, will be adequate to meet any probable claim on that Fund.";

Amounts in one Fund may be transferred to the other Fund or may be utilised for other purposes.

(16) in section 26, in sub-section (1), after the words "Deposit Insurance Fund", the words "or the Credit Guarantee Fund" shall be inserted;

(17) for section 27, the following section shall be substituted, namely:—

"27. If, at any time, the amount available in the Deposit Insurance Fund or the Credit Guarantee Fund is insufficient to meet the requirements of that Fund, the Corporation may transfer, on such terms and for such period as may be determined by the Board with the approval of the Reserve Bank, from any of the other two Funds, referred to in section 22, such amount as may be necessary to meet the requirements of the Deposit Insurance Fund or the Credit Guarantee Fund, as the case may be.";

Advances from General Fund to the Deposit Insurance Fund or Credit Guarantee Fund.

(18) section 30 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in the Income-tax Act, 1961, the Corporation shall not be liable to pay any tax under that Act on any of its income, profits or gains for the period commencing from the first day of January, 1977, and ending with the commencement of the accounting year during which Chapter II of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978, comes into force and for four accounting years following that year.";

43 of 1961

(19) in section 34, in sub-section (1),—

(i) after the words "an insured bank", the words "or a credit institution" shall be inserted; and

(ii) after the words "deposits in that bank", the words "or the credit facilities granted by that credit institution, as the case may be," shall be inserted;

(20) in section 35,—

(i) in sub-section (1), after the words "insured bank", the words "or a credit institution" shall be inserted; and

(ii) in sub-section (2),—

(a) after the words "insured bank", the words "or credit institution" shall be inserted; and

(b) after the words "the bank", the words "or the credit institution" shall be inserted;

(21) in section 36,—

(i) in sub-section (1), after the words "insured bank", the words "or a credit institution" shall be inserted;

(ii) in sub-section (3), for the words "neither the bank inspected or investigated nor any other bank", the words "neither the bank nor the credit institution, as the case may be, inspected or investigated, nor any other bank or credit institution" shall be substituted;

(22) in section 38, after the words "insured bank", the words "or a credit institution" shall be inserted;

(23) section 39 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:—

"(2) The Corporation shall observe, except as otherwise required by law, the practices and usages customary among the bankers, and, in particular, it shall not divulge any information relating to an insured bank or its customers or a credit institution or its customers except in circumstances in which it is, in accordance with law or practices or usages customary among bankers, necessary or appropriate for the Corporation to divulge such information.";

(24) for section 49, the following section shall be substituted, namely:—

Cognizance and trial of offences.

"49. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under this Act except upon a complaint, in writing, made by an officer of the Corporation, generally or specially authorised in writing in this behalf by the Board, and no court, inferior to the Court of a Metropolitan Magistrate or a Judicial Magistrate of the first class, shall try any such offence. 2 of 1974

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the Corporation filing the complaint, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant."; 2 of 1954

(25) in the First Schedule, for the words "Deposit Insurance Corporation", wherever they occur, the words "Deposit Insurance and Credit Guarantee Corporation" shall be substituted.

~~CHAPTER IV~~

~~AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934~~

Amendment of Act 2 of 1934.

~~9. In the Reserve Bank of India Act, 1934, in section 17, in clause (11A), sub-clause (a) shall be omitted.~~

omitted by Act 81 of 1985, s.12 (w.e.f. 1.5.1986).

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE COAL MINES NATIONALISATION LAWS (AMENDMENT) ACT, 1978

No. 22 of 1978

[27th May, 1978]

An Act further to amend the Coking Coal Mines (Nationalisation) Act, 1972, and the Coal Mines (Nationalisation) Act, 1973.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Coal Mines Nationalisation (Laws (Amendment) Act, 1978. **Short title.**

2. In section 3 of the Coking Coal Mines (Nationalisation) Act, 1972 (hereinafter referred to as the Coking Coal Act),— **Amendment of section 3 of Act 36 of 1972.**

(*i*) in clause (*b*), in sub-clause (*vi*), for the *Explanation*, the following *Explanation* shall be substituted, and shall be deemed to have been substituted with effect from the 1st day of May, 1972, namely:—

'*Explanation*.—The expression "current assets" does not include,—

(*a*) dues representing the sale of coal and coal products effected at any time before the appointed day and outstanding immediately before the said day;

(*b*) dues from the Coal Board, established under section 4 of the Coal Mines (Conservation, Safety and Development) Act, 1952, prior to the repeal of the said Act, with respect to any period before the appointed day; 19 of 1952.

(*c*) dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coke oven plant;

(*d*) security deposits made by the owners with the Coal Controller appointed by the Central Government or with

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the Railways for the fulfilment of contracts or with a State Electricity Board for the payment of bills;

(*e*) earnest money deposited by the owners with the Railways for obtaining contracts;';

(*ii*) in clause (*j*), in sub-clause (*xi*), for the *Explanation*, the following *Explanation* shall be substituted, and shall be deemed to have been substituted with effect from the 1st day of May, 1972, namely:—

'*Explanation*.—The expression "current assets" does not include,—

(*a*) dues representing the sale of coal and coal products effected at any time before the appointed day and outstanding immediately before the said day;

(*b*) dues from the Coal Board, established under section 4 of the Coal Mines (Conservation, Safety and Development) Act, 1952, prior to the repeal of the said Act, with respect to any period before the appointed day; 19 of 1952

(*c*) dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coking coal mine;

(*d*) security deposits made by the owners with the Coal Controller appointed by the Central Government or with the Railways for the fulfilment of contracts or with a State Electricity Board for the payment of bills;

(*e*) earnest money deposited by the owners with the Railways for obtaining contracts;'.

Amendment of section 20.

3. In section 20 of the Coking Coal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons to also exercise all or any of the powers exercisable by him under this Act, and different persons may be authorised to exercise different powers.

(2*A*) Any person authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.".

4. After section 22 of the Coking Coal Act, the following section shall be inserted, namely:— Insertion of new section 22A.

"22A. (1) Notwithstanding anything contained in section 3, as amended by section 2 of the Coal Mines Nationalisation Laws (Amendment) Act, 1978, any money collected by the Central Government or the Government company during the period commencing on the appointed day and ending with the date specified under sub-section (3) of section 22 shall be deemed to have been validly collected by the Central Government or the Government company, as the case may be, and any such money shall be applied in accordance with the provisions of section 22. Validation of certain collections.

(2) Any money collected as aforesaid shall not be called in question in any court of law.".

5. In section 23 of the Coking Coal Act,— Amendment of section 23.

(a) in sub-section (1A),—

46 of 1948. (i) after the words and figures "the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948;", the following shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of May, 1972, namely:—

"and claims in relation to any other matter may be filed on behalf of all or any of the persons so employed or any group of such persons, by any Trade Union, registered under the Trade Unions Act, 1926, or, where no such claim has been filed by any Trade Union, by the Chief Labour Commissioner (Central) appointed by the Central Government or any officer subordinate to him;";

16 of 1926.

(ii) in the proviso, after the words "the Coal Mines Provident Fund Commissioner", the following shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of May, 1972, namely:—

"or the Trade Union or the Chief Labour Commissioner (Central) or any officer subordinate to him";

(b) after sub-section (1A), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of November, 1973, namely:—

"(1AA) Where any claim, not being a claim which was time-barred on the 17th day of October, 1971, was preferred under sub-section (1) within the period specified therefor and was rejected merely on the ground that such claim was time-barred, such claim shall be deemed not to have been rejected and the Commissioner shall restore on his file such claim and shall deal with it in the manner specified in this section.";

(c) after sub-section (9), the following sub-section shall be inserted, namely:—

"(9A) The Commissioner may, on receipt of a claim,—

(a) elect to settle the claim himself; or

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(b) transfer the claim for settlement to a person authorised in this behalf under sub-section (2) of section 20; or

(c) withdraw the claim from the person referred to in clause (b) and either settle the claim himself or transfer it for disposal to any other person who has been authorised in this behalf under sub-section (2) of section 20.";

(d) in sub-section (10),—

(i) for the words "A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision,", the words "A claimant or owner who is dissatisfied with the decision of the Commissioner may prefer an appeal, within a period of sixty days from the date of the decision," shall be substituted;

(ii) after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that any appeal which has not been preferred before the date on which the Coal Mines Nationalisation Laws (Amendment) Act, 1978, receives the assent of the President, shall be preferred within a period of sixty days from such date.".

Insertion of new section 23A.

6. After section 23 of the Coking Coal Act, the following section shall be inserted, namely:—

Application of sections 5 and 12 of the Limitation Act.

"23A. The provisions of sections 5 and 12 of the Limitation Act, 1963, shall, so far as may be, apply to appeals under section 23.". 36 of 1963.

Insertion of new section 24A.

7. After section 24 of the Coking Coal Act, the following section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of May, 1972, namely:—

Interest on admitted claims.

"24A. Notwithstanding any award, decree or order of any court, tribunal or other authority, passed before the appointed day, in relation to any coking coal mine or coke oven plant, where any amount is payable in respect of a claim admitted under this Act, the interest payable on such amount for any period after the appointed day shall be at such rate not exceeding the rate of interest accruing on any amount deposited by the Commissioner under section 21.".

Insertion of new section 25A.

8. After section 25 of the Coking Coal Act, the following section shall be inserted, namely:—

Notice to owners of coking coal mines or coke oven

"25A. (1) After meeting the liabilities of persons whose claims have been admitted under this Act, the Commissioner shall notify, in such manner as he may think fit, the amount of money available with him and specify in such notification a date within which the owners of the coking coal mines or coke oven plants, the managing contractors and the owners of any machinery, equipment or other property

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which has vested in the Central Government or a Government company under this Act and which does not belong to the owners of the coking coal mines or coke oven plants may apply to him for payment. plants and managing contractors, etc.

(2) Where any application is made under sub-section (1), the Commissioner shall, after satisfying himself as to the right of the applicant to receive the whole or any part of the amount, pay the amount to the person concerned and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount, the Commissioner shall deal with the application in the manner specified in sub-section (1) of section 26.".

Amendment of section 27.

9. In section 27 of the Coking Coal Act, for the words "which remains undisbursed or unclaimed after such payment for a period of three years", the words "which remains undisbursed or unclaimed for a period of three years from the day on which the last order for disbursement was made" shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of March, 1976.

Amendment of section 2 of Act 26 of 1973.

10. In section 2 of the Coal Mines (Nationalisation) Act, 1973 (hereinafter referred to as the Coal Mines Act), in clause (h), for sub-clause (xii), the following sub-clause shall be substituted, and shall be deemed to have been substituted with effect from the 1st day of May, 1973, namely:—

'(xii) all other fixed assets, movable and immovable, belonging to the owner of a mine, wherever situated, and current assets, belonging to a mine, whether within its premises or outside.

Explanation.—The expression "current assets" does not include,—

(a) dues representing the sale of coal and coal products effected at any time before the appointed day and outstanding immediately before the said day;

(b) dues from the Coal Board, established under section 4 of the Coal Mines (Conservation, Safety and Development) Act, 1952, prior to the repeal of the said Act, with respect to any period before the appointed day; 19 of 1952.

(c) dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coal mine;

(d) security deposits made by the owners with the Coal Controller appointed by the Central Government or with the Railways for the fulfilment of contracts or with a State Electricity Board for the payment of bills;

(e) earnest money deposited by the owners with the Railways for obtaining contracts;'.

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11. In section 18 of the Coal Mines Act, in sub-section (*2*), for the words "any period, after the appointed day,", the words "the period" shall be substituted. Amendment of section 18.

12. After section 19 of the Coal Mines Act, the following section shall be inserted, namely:— Insertion of new section 19A.

"19A. (*1*) Notwithstanding anything contained in section 2, as amended by section 10 of the Coal Mines Nationalisation Laws (Amendment) Act, 1978, any money collected by the Central Government or the Government company during the period commencing on the appointed day and ending with the date specified under sub-section (*3*) of section 19 shall be deemed to have been validly collected by the Central Government or the Government company, as the case may be, and any such money shall be applied in accordance with the provisions of section 19. Validation of certain collections.

(*2*) Any money collected as aforesaid shall not be called in question in any court of law.".

13. In section 20 of the Coal Mines Act,— Amendment of section 20.

(*a*) in sub-section (*2*),—

(*i*) after the words and figures "the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948;", the following shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of May, 1973, namely:— 46 of 1948.

"and claims in relation to any other matter may be filed on behalf of all or any of the persons so employed or any group of such persons, by any Trade Union, registered under the Trade Unions Act, 1926, or, where no such claim has been filed by any Trade Union, by the Chief Labour Commissioner (Central) appointed by the Central Government or any officer subordinate to him;"; 16 of 1926.

(*ii*) in the proviso, after the words "the Coal Mines Provident Fund Commissioner", the following shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of May, 1973, namely:—

"or the Trade Union or the Chief Labour Commissioner (Central) or any officer subordinate to him,";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of November, 1975, namely:—

"(*3*) Where any claim, not being a claim which was time-barred on the 31st day of January, 1973, was preferred under sub-section (*1*) within the period specified therefor and was rejected merely on the ground that such claim was time-barred, such claim shall be deemed not to have been rejected and the Commissioner shall restore on his file such claim and shall deal with it in the manner specified in section 23.".

14. In section 23 of the Coal Mines Act,— Amendment of section 23.

(a) after sub-section (6), the following sub-section shall be inserted, namely:—

"(6A) The Commissioner may, on receipt of a claim,—

(a) elect to settle the claim himself; or

(b) transfer the claim for settlement to a person authorised in this behalf under sub-section (2) of section 17; or

(c) withdraw the claim from the person referred to in clause (b) and either settle the claim himself or transfer it for disposal to any other person who has been authorised in this behalf under sub-section (2) of section 17.";

(b) in sub-section (7),—

(i) for the words "A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision", the words "A claimant or owner who is dissatisfied with the decision of the Commissioner may prefer an appeal, within a period of sixty days from the date of the decision," shall be substituted;

(ii) after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that any appeal which has not been preferred before the date on which the Coal Mines Nationalisation Laws (Amendment) Act, 1978, receives the assent of the President, shall be preferred within a period of sixty days from such date.".

15. After section 23 of the Coal Mines Act, the following section shall be inserted, namely:— Insertion of new section 23A.

"23A. The provisions of sections 5 and 12 of the Limitation Act, 1963, shall, so far as may be, apply to appeals under section 23.". Applications of sections 5 and 12 of the Limitation Act.

36 of 1963.

16. After section 24 of the Coal Mines Act, the following section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of May, 1973, namely:— Insertion of new section 24A.

"24A. Notwithstanding any award, decree or order of any court, tribunal or other authority, passed before the appointed day, in relation to any coal mine, where any amount is payable in respect of a claim admitted under this Act, the interest payable on such amount for any period after the appointed day shall be at such rate not exceeding the rate of interest accruing on any amount deposited by the Commissioner under section 18.". Interest on admitted claims.

17. After section 25 of the Coal Mines Act, the following section shall be inserted, namely:— Insertion of new section 25A.

"25A. (1) After meeting the liabilities of persons whose claims have been admitted under this Act, the Commissioner shall notify,

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Notice to owners of coal mines and managing contractors, etc.

in such manner as he may think fit, the amount of money available with him and specify in such notification a date within which the owners of the coal mines, the managing contractors and the owners of any machinery, equipment or other property which has vested in the Central Government or a Government company under this Act and which does not belong to the owners of the coal mines may apply to him for payment.

(2) Where any application is made under sub-section (1), the Commissioner shall, after satisfying himself as to the right of the applicant to receive the whole or any part of the amount, pay the amount to the person concerned and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount, the Commissioner shall deal with the application in the manner specified in sub-section (2) of section 26.".

Amendment of section 27.

18. In section 27 of the Coal Mines Act, for the words "three years from the last day on which the disbursement was made", the words "three years from the day on which the last order for disbursement was made" shall be substituted.

Amendment of section 30.

19. In section 30 of the Coal Mines Act, in sub-section (2), for the words "with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees", the words "with imprisonment for a term which may extend to three years and also with fine which may extend to twenty thousand rupees" shall be substituted.

Claims made on behalf of workmen by Trade Union, etc., to have effect.

20. Every claim made, before the date on which this Act receives the assent of the President, on behalf of all or any of the persons employed by the owner of—

(*a*) a coking coal mine or group of coking coal mines or a coke oven plant; or

(*b*) a coal mine or group of coal mines,

or on behalf of a group of such persons, by a Trade Union, registered under the Trade Unions Act, 1926, or the Chief Labour Commissioner (Central) appointed by the Central Government or any officer subordinate to him, against such owner, and every action taken in relation to such claim shall be deemed to have been made or taken in the case of a coking coal mine or a coke oven plant, in accordance with the provisions of the Coking Coal Mines (Nationalisation) Act, 1972, and in the case of a coal mine, in accordance with the provisions of the Coal Mines (Nationalisation) Act, 1973, as amended by this Act, as if the relevant Act, as amended by this Act, were in force at all material times.

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Rep. by 19 of 1988, s. 2 & Sch. I

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1978

No. 23 OF 1978

[3rd June, 1978]

An Act further to amend the Electricity (Supply) Act, 1948.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Electricity (Supply) Amendment Act, 1978.

54 of 1948.

Amendment of section 1.

2. In section 1 of the Electricity (Supply) Act, 1948 (hereinafter referred to as the principal Act),—

(a) in sub-section (3), for the words "Sixth and Seventh Schedules", the words "Sixth Schedule" shall be substituted;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (4),—

(a) where any provision of this Act, to which sub-section (4) applies, is in force in any State immediately before the commencement of the Electricity (Supply) Amendment Act, 1978, that provision as amended by the Electricity (Supply) Amendment Act, 1978, shall, on and from such commencement, be in force in that State;

(b) the provisions of this Act, to which sub-section (4) applies, which are not in force in any State on the commencement of the Electricity (Supply) Amendment Act, 1978, shall come into force in that State on such date as the State Government may, with the concurrence of the Central Government, by notification in the Official Gazette, appoint.".

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (6), in the opening paragraph, for the word "servants", the word "employees" shall be substituted.

Insertion of new section 12A.

4. After section 12 of the principal Act, the following section shall be inserted, namely:—

Board may have capital structure.

"12A. (1) The State Government may, if it considers expedient so to do, by notification in the Official Gazette, direct that the Board shall, with effect from such date as may be specified in the notification, be a body corporate with such capital, not exceeding ten crores of rupees, as the State Government may specify from time to time,

(2) The State Government may, from time to time, with the approval of the State Legislature, increase the maximum limit of the capital referred to in sub-section (1) to such extent as that Government may deem fit, so, however, that the increased maximum limit of capital aforesaid shall not exceed the amount representing the aggregate of the outstanding loans of the Board.

(3) Such capital may be provided by the State Government, from time to time, after due appropriation made by the State Legislature by law for the purpose and subject to such terms and conditions as may be determined by that Government.".

Amendment of section 15.

5. In section 15 of the principal Act, in the opening paragraph, for the word "servants", the word "employees" shall be substituted.

Amendment of section 57.

6. In section 57 of the principal Act,—

(a) the words "and the Seventh Schedule" shall be omitted;

(b) for the words "the said Schedules", in both the places where they occur, the words "the said Schedule" shall be substituted.

Amendment of section 57A.

7. In section 57A of the principal Act, in sub-section (1), the words "and the Seventh Schedule" shall be omitted.

Substitution of new section for section 59.

8. For section 59 of the principal Act, the following section shall be substituted, namely:—

General principles for Board's Finance.

"59. (1) The Board shall, after taking credit for any subvention from the State Government under section 63, carry on its operations under this Act and adjust its tariffs so as to ensure that the total revenues in any year of account shall, after meeting all expenses properly chargeable to revenues, including operating, maintenance and management expenses, taxes (if any) on income and profits, depreciation and interest payable on all debentures, bonds and loans, leave such surplus, as the State Government may, from time to time, specify.

(2) In specifying the surplus under sub-section (1), the State Government shall have due regard to the availability of amounts accrued by way of depreciation and the liability for loan amortization and leave—

(a) a reasonable sum to contribute towards the cost of capital works; and

(b) where in respect of the Board, a notification has been issued under sub-section (1) of section 12A, a reasonable sum by way of return on the capital provided by the State Government under sub-section (3) of that section and the amount of the loans (if any) converted by the State Government into capital under sub-section (1) of section 66A.".

REPEALED

9. In section 60 of the principal Act, in sub-section (2),— Amendment of section 60.

(a) for the words "two months", the words "one year" shall be substituted;

(b) the words, brackets and figures, "before the issue of the notification under sub-section (4) of section 1" shall be omitted.

10. In section 61 of the principal Act, in sub-section (2), for the words "members, officers and servants", the words "members and officers and other employees" shall be substituted. Amendment of section 61.

11. In section 62 of the principal Act, in sub-section (2), after the words "extreme urgency", the words ",it shall be expended in accordance with the regulations made by the Board with the previous approval of the State Government and" shall be inserted. Amendment of section 62.

12. In section 65 of the principal Act,— Amendment of section 65.

(a) in sub-section (2), for the words "issue of bonds or stock", the words "issue of debentures or bonds" shall be substituted;

(b) in sub-section (4), for the words "Stock issued", the words "Debentures or bonds issued" shall be substituted.

13. After section 66 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 66A.

"66A. (1) Notwithstanding anything contained in section 12A, where any loan has been obtained from the State Government by a Board, in respect of which Board a notification has been made under sub-section (1) of that section, or any loan is deemed to be advanced to such Board by the State Government under sub-section (2) of section 60, the State Government may, if in its opinion it is necessary in the public interest so to do, by order, direct that the amount of such loan or any part thereof shall be converted into capital provided to the Board on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of such loan do not include a term providing for an option for such conversion. Conversion of amount of loans into capital.

(2) In determining the terms and conditions of such conversion, the State Government shall have due regard to the following circumstances, that is to say, the financial position of the Board, the terms of the loan, the rate of interest payable on the loan, the capital of the Board, its loan liabilities and its reserves.

(3) Notwithstanding anything contained in this Act, where the State Government has, by an order made under sub-section (1), directed that any loan or any part thereof shall be converted into capital, and such order has the effect of increasing the capital of the Board, the capital of the Board shall stand increased by the amount by which the conversion increases the capital of the Board in excess of the capital specified under sub-section (1) of section 12A:

Provided that the amount of the loan so converted together with the capital provided under sub-section (*3*) of section 12A shall not exceed the amount representing the aggregate of the outstanding loans of the Board after such conversion.".

Substitution of new section for section 67.

14. For section 67 of the principal Act, the following section shall be substituted, namely:—

Priority of liabilities of Board.

"67. (*1*) If in any year, the revenue receipts are not adequate to enable compliance with the requirements of section 59, the Board shall, after meeting its operating, maintenance and management expenses and after provision has been made for the payment of taxes (if any) on income and profits, distribute the revenue receipts, as far as they are available, in the following order, namely:—

(*i*) payment of interest on loans not guaranteed under section 66;

(*ii*) repayment of principal of any loan raised (including redemption of debentures or bonds issued) under section 65 which becomes due for payment in the year;

(*iii*) payment of interest on loans guaranteed under section 66;

(*iv*) payment of interest on sums paid by the State Government in pursuance of guarantees under section 66;

(*v*) payment of interest on loans advanced to the Board by the State Government under section 64 or deemed to be advanced under sub-section (*2*) of section 60;

(*vi*) repayment of principal of any loan guaranteed by the State Government under section 66 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(*vii*) repayment of principal of any loan advanced to the Board under section 64 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid,

and if any balance amount is left thereafter, the same shall be utilised for the other purposes specified in section 59 in such manner as the Board may decide,

(*2*) If for any reason beyond the control of the Board, the revenue receipts in any year are not adequate to meet its operating, maintenance and management expenses, taxes (if any) on incomes and profits and the liabilities referred to in clauses (*i*) and (*ii*) of sub-section (*1*), the shortfall shall, with the previous sanction of the State Government, be paid out of its capital receipts.".

Substitution of new section for section 68.

15. For section 68 of the principal Act, the following section shall be substituted, namely:—

Charging of depreciation by Board.

"68. (*1*) Subject to the provisions of section 67, the Board shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification in the Official Gazette, lay down from time to time.

(2) Where in any particular year depreciation cannot be adjusted against revenues, the same may be carried over to subsequent years.

(3) The provisions of this section shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978, comes into force.".

16. In section 69 of the principal Act, in sub-section (4), for the words "forwarded annually to the State Government", the words "forwarded to the Authority and to the State Government within six months of the close of the year to which the accounts and audit report relate" shall be substituted. Amendment of section 69.

17. In section 74 of the principal Act, for the words "officer or servant", the words "officer or other employee" shall be substituted. Amendment of section 74.

18. In section 75A of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 75A.

"(3A) (a) The Generating Company shall carry on its operations under this Act and adjust its tariffs so as to ensure that the total revenues in any year of account shall, after meeting all the expenses properly chargeable to revenues including operating, maintenance and management expenses, taxes (if any) on income and profits, depreciation and interest payable on all debentures, bonds and loans, leave such surplus as the promoting government or promoting governments, as the case may be, may, from time to time, specify.

(b) In specifying the surplus under clause (a), the promoting government or promoting governments, as the case may be, shall have due regard to the availability of amounts accrued by way of depreciation and the liability for loan amortization and leave a reasonable amount to contribute towards the cost of capital works and for payment of dividend on shares.".

19. In section 79 of the principal Act,— Amendment of section 79.

(a) in clause (c), for the words "officers and servants", the words "officers and other employees" shall be substituted;

(b) after clause (j), the following clause shall be inserted, namely:—

"(jj) expending sum not included in statement submitted under sub-section (1) or sub-section (5) of section 61, under sub-section (2) of section 62;";

(c) in the proviso, for the word, brackets and letter "and (d)", the brackets, letters and word ", (d) and (jj)" shall be substituted.

20. In section 81 of the principal Act, for the words "members, officers and servants", the words "members and officers and other employees" shall be substituted. Amendment of section 81.

REPEALED

Amendment of section 82.

21. In section 82 of the principal Act, for the words "member, officer or servant", the words "member or officer or other employee" shall be substituted.

Amendment of Fourth Schedule.

22. In the Fourth Schedule to the principal Act,—

(*a*) in paragraph I, clause (*c*) shall be omitted;

(*b*) in paragraph II, for the words and figure "on the scale set out in paragraph III", the words and figure "calculated in accordance with the provisions of paragraph VI of the Sixth Schedule" shall be substituted;

(*c*) paragraph III shall be omitted.

Amendment of Sixth Schedule

23. In the Sixth Schedule to the principal Act,—

(*1*) in paragraph VA,—

(*a*) in sub-paragraph (*1*),—

(*i*) for the words "amount of development rebate", the words "amount of investment allowance" shall be substituted;

(*ii*) for the words, brackets, figures and letter "under clause (*vib*) of sub-section (*2*) of section 10 of the Indian Income-tax Act, 1922,", the words, figures and letter "under section 32A of the Income-tax Act, 1961" shall be substituted; 11 of 1922. 43 of 1961.

(*b*) in the proviso to sub-paragraph (*4*), after the words "amount of the Reserve", the brackets and words "(whether such amount is in the form of cash or other assets)" shall be inserted;

(*2*) for paragraphs VI, VII, VIII, IX, X and XI, the following paragraph shall be substituted, namely:—

"VI. (*a*) The licensee shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification in the Official Gazette, lay down from time to time.

(*b*) Where in any particular year depreciation cannot be adjusted against revenues, the same may be carried over to subsequent years.

(*c*) The provisions of this paragraph shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978, comes into force.";

(*3*) in paragraph XVII, clause (*8*) shall be omitted.

Omission of Seventh Schedule.

24. The Seventh Schedule to the principal Act shall be omitted.

Amendment of Eighth Schedule and Ninth Schedule.

25. In clause (*a*) of paragraph I of the Eighth Schedule and clause (*f*) of paragraph I of the Ninth Schedule to the principal Act, for the words "officers and servants", the words "officers and other employees" shall be substituted.

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1978

No. 24 OF 1978

[3rd June, 1978.]

An Act further to amend the Reserve Bank of India Act, 1934.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Change of nomenclature of Agricultural Refinance Corporation.

2 of 1934.

2. In the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act), for the words "Agricultural Refinance Corporation", wherever they occur, the words "Agricultural Refinance and Development Corporation" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act,—

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

'(bix) "foreign currency" and "foreign exchange" have the meanings respectively assigned to them in the Foreign Exchange Regulation Act, 1973;

46 of 1973.

(c) "Industrial Finance Corporation" means the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948;';

15 of 1948.

(ii) after clause (f), the following clause shall be inserted, namely:—

'(fi) "State Financial Corporation" means any State Financial Corporation established under the State Financial Corporations Act, 1951;'.

63 of 1951

Amendment of section 17.

4. In section 17 of the principal Act,—

(*i*) in clause (*3*), in sub-clause (*a*), the words "in amounts of not less than the equivalent of one lakh of rupees" shall be omitted;

(*ii*) in clauses (*4*) and (*4A*), the words and figures "established under the State Financial Corporations Act, 1951" shall be omitted;

(*iii*) in clause (*4B*), the words and figures "established under the Industrial Finance Corporation Act, 1948" shall be omitted;

(*iv*) after clause (*4H*), the following clause shall be inserted, namely:—

"(*4-I*) the making to scheduled banks, the Development Bank, the Industrial Finance Corporation and any other financial institution as may, on the recommendation of the Bank, be approved in this behalf by the Central Government of loans and advances repayable on demand or otherwise and against such security and on such other terms and conditions as may be approved in this behalf by the Central Board for the purpose of enabling such banks, or financial institution, as the case may be, to purchase foreign exchange from the Bank for the purpose of financing the import of capital goods or for such other purposes as may be approved by the Central Government;";

(*v*) in cluse (*11*), the words and figures "established under the Industrial Finance Corporation Act, 1948" shall be omitted;

(*vi*) for clause (*12*), the following clause shall be substituted, namely:—

"(*12*) the purchase and sale of gold or silver coins and gold and silver bullion and foreign exchange and the opening of a gold account with the principal currency authority of any foreign country or the Bank for International Settlements or any international or regional bank or financial institution formed by such principal currency authority or authorities or by the Government of any foreign country;";

(*vii*) for clause (*12A*), the following clause shall be substituted, namely:—

"(*12A*) the purchase and sale of securities issued by the Government of any country outside India or by any institution or body corporate established outside India and expressed to be payable in a foreign currency or any international or composite currency unit, being in the case of purchase by the Bank securities maturing within a period of ten years from the date of purchase:

Provided that in the case of securities of an institution or body corporate, the repayment of principal and payment of interest in respect of such securities shall be guaranteed by the Government of the country concerned;";

(*viii*) after clause (*12A*) as so amended, the following clause shall be inserted, namely:—

"(*12B*) the making of loans and advances in foreign currencies to scheduled banks, the Development Bank, the Industrial Finance Corporation, any State Financial Corporation and any other financial institution as may, on the recommendation of the Bank, be approved by the Central Government and on such terms and conditions as may be specified by the Central Board in this behalf, against promissory notes of such bank or financial institution, as the case may be:

Provided that the borrowing bank or financial institution, as the case may be, furnishes a declaration in writing to the effect that—

(*a*) it has made loans and advances in foreign currencies for financing international trade or for the import of capital goods or for such other purposes as may be approved by the Central Government; and

(*b*) that the amount of loans or advances so made and outstanding at any time will not be less than the outstanding amount of the loans or advances obtained by it from the Bank;";

(*ix*) for clause (*13*), the following clause shall be substituted, namely:—

"(*13*) the opening of an account with an office outside India of any bank, including a bank incorporated in India or the making of an agency agreement with, and the acting as an agent or correspondent of, any bank incorporated outside India, or the principal currency authority of any country under the law for the time being in force in that country or any international or regional bank or financial institution formed by such principal currency authorities or foreign governments, and the investing of the funds of the Bank in the shares and securities of any such international or regional bank or financial institution or of any other foreign institution as may be approved by the Central Board in this behalf;".

5. In section 18 of the principal Act, clause (*2*) shall be omitted. **Amendment of section 18.**

6. In section 33 of the principal Act, in sub-section (*6*), in clause (*i*),— **Amendment of section 33.**

(*1*) in sub-clause (*a*),—

(*a*) after the words "International Finance Corporation", the words "or Asian Development Bank" shall be inserted;

(*b*) for the words "any commercial bank notified by the Central Government", the words "any banking or financial institution notified by the Central Government" shall be substituted; and

REPEALED

(c) for the words "period of five years", the words "period of ten years" shall be substituted;

(2) in sub-clause (c), for the words "within five years", the words "within ten years" shall be substituted.

Amendment of section 46C.

7. In section 46C of the principal Act, in sub-section (2), in clause (*a*), the words and figures "established under the Industrial Finance Corporation Act, 1948" and "established under the State Financial Corporations Act, 1951" shall be omitted.

Amendment of section 48.

8. In section 48 of the principal Act, in sub-section (*1*), for the words and figures "Indian Income-tax Act, 1922", the words and figures "the Income-tax Act, 1961" shall be substituted.

Amendment of section 53.

9. In section 53 of the principal Act, in sub-section (*1*), for the words "published weekly in the Gazette of India", the words "published in the Gazette of India at such intervals and in such modified form as it may deem fit" shall be substituted.

Rep. by Act 19 of 1988, S. 28 Sch. I

THE CUSTOMS, CENTRAL EXCISES AND SALT AND CENTRAL BOARDS OF REVENUE (AMENDMENT) ACT, 1978

No. 25 of 1978

[*6th June*, 1978.]

An Act to provide for certain amendments to the Customs Act, 1962, the Central Excises and Salt Act, 1944 and the Central Boards of Revenue Act, 1963.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title and commencement.

1. (*1*) This Act may be called the Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, 1978.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

Amendments to the Customs Act, 1962

Amendment of section 2.

52 of 1962.

2. In section 2 of the Customs Act, 1962 (hereafter in this Chapter referred to as the Customs Act), in clause (*28*), for the words "waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of India", the words and figures "waters extending into the sea up to the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976" shall be substituted.

80 of 1976.

Amendment of section 14.

3. In section 14 of the Customs Act,—

(*a*) in sub-section (*1*), in clause (*a*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill or bill of export, as the case may be, is presented under section 50.";

REPEALED

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

'(3) For the purposes of this section—

(a) "rate of exchange" means the rate of exchange—

(i) determined by the Central Government, or

(ii) ascertained in such manner as the Central Government may direct,

for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in the Foreign Exchange Regulation Act, 1973.'. 46 of 1973.

Amendment of section 15.

4. In section 15 of the Customs Act—

(a) in sub-section (1), the words ", rate of exchange" shall be omitted;

(b) sub-section (3) shall be omitted.

Amendment of section 27.

5. In section 27 of the Customs Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(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—

(a) in the case of any import made by any individual for his personal use or by Government or by any educational, research or charitable institution or hospital, before the expiry of one year;

(b) in any other case, before the expiry of six months, from the date of payment of duty:

Provided that the limitation of one year or six months, as the case may be, shall not apply where any duty has been paid under protest.

Explanation.—Where any duty is paid provisionally under section 18, the period of one year or six months, as the case may be, shall be computed from the date of adjustment of duty after the final assessment thereof.".

Amendment of section 28.

6. In section 28 of the Customs Act, in sub-section (1),—

(a) for the opening paragraph, the following shall be substituted, namely:—

"When any duty has not been levied or has been short-levied or erroneously refunded, the proper officer may,—

(a) in the case of any import made by any individual for his personal use or by Government or by any educational, research or charitable institution or hospital, within one year;

REPEALED

(b) in any other case, 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:";

(b) in the proviso, for the words ' "six months" ', the words ' "one year" and "six months" ' shall be substituted.

Insertion of new section 28A.

7. After section 28 of the Customs Act, the following section shall be inserted, namely:—

Power not to recover duties not levied or short-levied as a result of general practice.

"28A. Notwithstanding anything contained in this Act, if the Central Government is satisfied—

(a) that a practice was, or is, generally prevalent regarding levy of duty (including non-levy thereof) on any goods imported into, or exported from, India; and

(b) that such goods were, or are, liable—

(i) to duty, in cases where according to the said practice the duty was not, or is not being, levied, or

(ii) to a higher amount of duty than what was, or is being, levied, according to the said practice,

then, the Central Government may, by notification in the Official Gazette, direct that the whole of the duty payable on such goods, or, as the case may be, the duty in excess of that payable on such goods, but for the said practice, shall not be required to be paid in respect of the goods on which the duty was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.".

Amendment of section 46.

8. In section 46 of the Customs Act, in sub-section (3),—

(a) in the proviso, for the words "such manifest or report", the words "such report" shall be substituted;

(b) after the proviso as so amended, the following further proviso shall be inserted, namely:—

"Provided further that a bill of entry may be presented even before the delivery of such manifest if the vessel by which the goods have been shipped for importation into India is expected to arrive within a week from the date of such presentation.".

Amendment of section 61.

9. In section 61 of the Customs Act,—

(a) for the opening paragraph, the following shall be substituted, namely:—

"Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed,—

(a) in the case of non-consumable stores, till the expiry of three years; and

REPEALED

(*b*) in the case of any other goods, till the expiry of one year,

after the date on which the proper officer made an order under section 60 permitting the deposit of the goods in a warehouse:";

(*b*) in the first proviso for the words "three years", in both places where they occur, the words "three years or one year, as the case may be;" shall be substituted.

Amendment of section 75.

10. In section 75 of the Customs Act,—

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

"(*1A*) Where it appears to the Central Government that the quantity of a particular material imported into India is more than the total quantity of like material that has been used in the goods manufactured in India and exported outside India, then, the Central Government may, by notification in the Official Gazette, declare that so much of the material as is contained in the goods exported shall, for the purpose of sub-section (*1*), be deemed to be imported material.";

(*b*) in sub-section (*2*), in clause (*a*), for the words "goods of that class or description", the words "export goods of that class or description" shall be substituted.

Amendment of section 113.

11. In section 113 of the Customs Act, in clause (*i*), after the words "dutiable or prohibited goods", the words "or goods entered for exportation under claim for drawback" shall be inserted.

Amendment of section 122.

12. In section 122 of the Customs Act, for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) where the value of the goods liable to confiscation does not exceed twenty-five thousand rupees, by an Assistant Collector of Customs;

(*c*) where the value of the goods liable to confiscation does not exceed two thousand five hundred rupees, by a gazetted officer of customs lower in rank than an Assistant Collector of Customs.".

Amendment of section 128.

13. In section 128 of the Customs Act, in sub-section (*1*), in the opening paragraph, after the words "any decision or order, passed under this Act", the brackets, words and figures "(not being an order passed under section 130)" shall be inserted.

Substitution of new section for section 130.

14. For section 130 of the Customs Act, the following section shall be substituted, namely:—

Powers of revision of Board. or Collector.

"130. (*1*) The Board may, of its own motion or otherwise, call for and examine the record of any proceeding in which a Collector of Customs has passed any decision or order under this Act for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit.

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(2) The Collector of Customs may of his own motion or otherwise call for and examine the record of any proceeding in which an officer of customs subordinate to him has passed any decision or order under this Act (not being an order passed in appeal under section 128) for the purpose of satisfying himself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as he thinks fit.

(3) (*a*) 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.

(*b*) Where the Board or, as the case may be, the Collector of Customs 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.

(4) No proceeding shall be initiated under this section in respect of any decision or order after the expiry of a period of one year from the date of such decision or order:

"Provided that where in respect of any decision or order passed by an officer of customs before the commencement of the Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, 1978, the period of one year for initiating revision proceedings had expired at such commencement, then, revision proceedings may be initiated within a period of six months from such commencement.".

Amendment of section 131.

15. In section 131 of the Customs Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) An application under sub-section (1) shall be accompanied by a fee of one hundred and twenty-five rupees.".

Amendment of section 135.

16. In section 135 of the Customs Act, for the words "six months", wherever they occur, the words "one year" shall be substituted.

Insertion of new section 143A.

17. After section 143 of the Customs Act, the following section shall be inserted, namely:—

Duty deferment.

"143A. (1) When any material is imported under an import licence belonging to the category of Advance Licence granted under the Imports and Exports (Control) Act, 1947, subject to an obligation to export the goods as are specified in the said Licence within the period specified therein, the Assistant Collector of Customs may, notwithstanding anything contained in this Act, permit clearance of such material without payment of duty leviable thereon.

18 of 1947.

(2) The permission for clearance without payment of duty under sub-section (1) shall be subject to the following conditions, that is to say—

(*a*) the duty payable on the material imported shall be adjusted against the drawback of duty payable under this Act

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or under any other law for the time being in force on the export of goods specified in the said Advance Licence; and

(b) where the duty is not so adjusted either for the reason that the goods are not exported within the period specified in the said Advance Licence, or within such extended period not exceeding six months as the Assistant Collector of Customs may, on sufficient cause being shown, allow, or for any other sufficient reason, the importer shall, notwithstanding anything contained in section 28, be liable to pay the amount of duty not so adjusted together with simple interest thereon at the rate of twelve per cent. per annum from the date the said permission for clearance is given to the date of payment.

(3) While permitting clearance under sub-section (1), the Assistant Collector of Customs may require the importer to execute a bond with such surety or security as he thinks fit for complying with the conditions specified in sub-section (2).".

Amendment of section 159.

18. In section 159 of the Customs Act, for the words "in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

CHAPTER III

AMENDMENTS TO THE CENTRAL EXCISES AND SALT ACT, 1944

Amendment of section 3.

19. In section 3 of the Central Excises and Salt Act, 1944 (hereafter in this Chapter referred to as the Central Excises and Salt Act), for sub-section (3), the following sub-section shall be substituted, namely:— 1 of 1944.

"(3) Different tariff values may be fixed—

(a) for different classes or descriptions of the same excisable goods; or

(b) for excisable goods of the same class or description—

(i) produced or manufactured by different classes of producers or manufacturers; or

(ii) sold to different classes of buyers:

Provided that in fixing different tariff values in respect of excisable goods falling under sub-clause (i) or sub-clause (ii), regard shall be had to the sale prices charged by the different classes of producers or manufacturers or, as the case may be, the normal practice of the wholesale trade in such goods.".

Insertion of new section 5.

20. After section 4 of the Central Excises and Salt Act, the following section shall be inserted, namely:—

Remission of duty on goods found deficient in quantity.

"5. (1) The Central Government may, by rules made under this section, provide for remission of duty of excise leviable on any excisable goods which due to any natural cause are found to be deficient in quantity.

(2) Any rules made under sub-section (1) may, having regard to the nature of the excisable goods or of processing or of curing

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thereof, the period of their storage or transit and other relevant considerations, fix the limit or limits of percentage beyond which no such remission shall be allowed:

Provided that different limit or limits of percentage may be fixed for different varieties of the same excisable goods or for different areas or for different seasons.".

Insertion of new sections 11A, 11B and 11C.

21. After section 11 of the Central Excises and Salt Act, the following sections shall be inserted, namely:—

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.

'11A. (1) When any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, a Central Excise Officer may, within six months from the relevant date, serve notice on the person chargeable with the duty which has not been levied or paid or which has been short-levied or short-paid 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:

Provided that where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of fraud, collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, by such person or his agent, the provisions of this sub-section shall have effect, as if for the words "six months", the words "five years" were substituted.

Explanation.—Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of six months or five years, as the case may be.

(2) The Assistant Collector of Central Excise shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), determine the amount of duty of excise 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 this section—

(i) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(ii) "relevant date" means,—

(a) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid—

(A) where under the rules made under this Act a monthly return, showing particulars of the duty paid on the excisable goods removed during the month to which the said return relates, is to be filed by a manufacturer,

or producer or a licensee of a warehouse, as the case may be, the date on which such return is so filed;

(*B*) where no monthly return as aforesaid is filed, the last date on which such return is to be filed under the said rules;

(*C*) in any other case, the date on which the duty is to be paid under this Act or the rules made thereunder;

(*b*) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;

(*c*) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund.

Claim for refund of duty.

11B. (*1*) Any person claiming refund of any duty of excise may make an application for refund of such duty to the Assistant Collector of Central Excise before the expiry of six months from the date of payment of duty:

Provided that the limitation of six months shall not apply where any duty has been paid under protest.

Explanation.—Where any duty of excise is paid provisionally under this Act or the rules made thereunder, 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 Central Excise is satisfied that the whole or any part of the duty of excise 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 of excise becomes due to any person, the Assistant Collector of Central Excise may refund the amount to such person without his having to make any claim in that behalf.

(*4*) Save as otherwise provided by or under this Act, no claim for refund of any duty of excise shall be entertained.

(*5*) Notwithstanding anything contained in any other law, the provisions of this section shall also apply to a claim for refund of any amount collected as duty of excise made on the ground that the goods in respect of which such amount was collected were not excisable or were entitled to exemption from duty and no court shall have any jurisdiction in respect of such claim.

Explanation.—For the purposes of this section, "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India.

Power not to recover duty of excise not levied

11C. Notwithstanding anything contained in this Act, if the Central Government is satisfied—

(*a*) that a practice was, or is, generally prevalent regarding levy of duty of excise (including non-levy thereof) on any excisable goods; and

(b) that such goods were, or are, liable— or short-levied as a result of general practice.

(i) to duty of excise, in cases where according to the said practice the duty was not, or is not being, levied, or

(ii) to a higher amount of duty of excise than what was, or is being, levied, according to the said practice,

then, the Central Government may, by notification in the Official Gazette, direct that the whole of the duty of excise payable on such goods, or, as the case may be, the duty of excise in excess of that payable on such goods, but for the said practice, shall not be required to be paid in respect of the goods on which the duty of excise was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.'.

22. In section 35 of the Central Excises and Salt Act, in sub-section (1), after the words "the rules made thereunder", the brackets, words, figures and letter "(not being an order passed under section 35A)" shall be inserted. Amendment of section 35.

23. For section 35A of the Central Excises and Salt Act, the following section shall be substituted, namely:— Substitution of new section for section 35A.

"35A. (1) The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, (hereinafter referred to as the Board), may, of its own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been passed under this Act or the rules made thereunder by a Collector of Central Excise (not being a decision or order passed on appeal under section 35) for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit. Revision by Board or Collector.

54 of 1963.

(2) The Collector of Central Excise may, of his own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been passed under this Act or the rules made thereunder by a Central Excise Officer subordinate to him (not being a decision or order passed on appeal under section 35) for the purpose of satisfying himself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as he thinks fit.

(3) (a) No decision or order under this section shall be varied so as to prejudicially affect any person unless such person is given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence.

(b) Where the Board or, as the case may be, the Collector of Central Excise is of opinion that any duty of excise has not been levied or has been short-levied or erroneously refunded, no order levying or enhancing the duty, or no order requiring payment of the

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duty so refunded, 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 11A.

(4) No proceedings shall be commenced under this section in respect of any decision or order [whether such decision or order has been passed before or after the commencement of the Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, 1978] after the expiration of a period of one year from the date of such decision or order.".

Amendment of section 36.

24. In section 36 of the Central Excises and Salt Act,—

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

"(1A) Every application under sub-section (1) shall be accompanied by a fee of rupees one hundred and twenty-five.";

(b) in sub-section (2), after the second proviso, the following further proviso shall be inserted, namely:—

"Provided also that where the Central Government is of opinion that any duty of excise has not been levied or has been short-levied or erroneously refunded, no order levying or enhancing the duty, or no order requiring payment of the duty so refunded, 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 11A.".

Amendment of section 37.

25. In section 37 of the Central Excises and Salt Act, in sub-section (2), after clause (ib), the following clause shall be inserted, namely:—

"(ic) provide for the remission of duty of excise leviable on any excisable goods, which due to any natural cause are found to be deficient in quantity, the limit or limits of percentage beyond which no such remission shall be allowed and the different limit or limits of percentage for different varieties of the same excisable goods or for different areas or for different seasons;".

Insertion of new section 37A.

26. After section 37 of the Central Excises and Salt Act, the following section shall be inserted, namely:—

Delegation of powers.

"37A. The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification—

(a) any power exercisable by the Board under this Act may be exercisable also by a Collector of Central Excise empowered in this behalf by the Central Government;

(b) any power exercisable by a Collector of Central Excise under this Act may be exercisable also by a Deputy Collector of Central Excise or an Assistant Collector of Central Excise empowered in this behalf by the Central Government;

(c) any power exercisable by a Deputy Collector of Central Excise under this Act may be exercisable also by an Assistant Collector of Central Excise empowered in this behalf by the Central Government; and

(d) any power exercisable by an Assistant Collector of Central Excise under this Act may be exercisable also by a gazetted officer of Central Excise empowered in this behalf by the Board.".

CHAPTER IV

AMENDMENT TO THE CENTRAL BOARDS OF REVENUE ACT, 1963

Amendment of Act 54 of 1963.

27. In section 3 of the Central Boards of Revenue Act, 1963, in sub-section (2), for the words "not exceeding five", the words "not exceeding seven" shall be substituted.

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE CUSTOMS TARIFF (AMENDMENT) ACT, 1978

No. 26 OF 1978

[1st *August*, 1978.]

An Act further to amend the Customs Tariff Act, 1975.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Customs Tariff (Amendment) Act, 1978.

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

Amendment of section 4.

2. In section 4 of the Customs Tariff Act, 1975 (hereinafter referred to as the principal Act),— 51 of 1975.

(a) in sub-section (1), for the words "the produce or manufacture of the United Kingdom or of such other preferential area", the words "the produce or manufacture of such preferential area" shall be substituted;

(b) in sub-section (2), for the words "the produce or manufacture of the United Kingdom or of any other preferential area", the words "the produce or manufacture of any preferential area" shall be substituted;

(c) in sub-section (3), for the words '"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland and "other preferential area"', the words '"preferential area"' shall be substituted.

Amendment of section 7.

3. In section 7 of the principal Act, in sub-section (1), for the word, brackets and figure "column (6)", the word, brackets and figure "column (5)" shall be substituted.

Amendment of the First Schedule.

4. The First Schedule to the principal Act shall be amended in the manner specified in the Schedule.

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THE SCHEDULE

(*See* section 4)

PART I

In the First Schedule to the principal Act,—

(*A*) in the Rules for the interpretation,—

(*i*) in rule 3, for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) When goods cannot be classified by reference to (*a*) or (*b*), they shall be classified under the Heading which occurs latest among those which equally merit consideration.";

(*ii*) under the heading "*General Explanatory Note*", the words, brackets and figure "or column (5)" shall be omitted;

(*B*) in each Chapter,—

(*i*) column (4) and the sub-heading "U.K." occurring above that column shall be omitted;

(*ii*) columns (5) and (6) shall be renumbered respectively as columns (4) and (5);

(*iii*) for the sub-heading "Other Preferential Areas" occurring above column (4), as so renumbered, the sub-heading "Preferential Areas" shall be substituted;

(*C*) (*1*) in Chapter 4, for Note 1, the following Note shall be substituted, namely:—

'1. The expression "milk" means full cream or skimmed milk, butter milk, whey, curdled milk, kephir; yoghourt and other fermented or acidified milk.';

(*2*) in Heading No. 09.04/10, in column (2), for the words and brackets "Spices (including mixed spices)", the words and brackets "Spices (including mixed spices, thyme, saffron and bay leaves)" shall be substituted;

(*3*) in Chapter 10, for the Note, the following Note shall be substituted, namely:—

"This Chapter only covers those grains which have been neither hulled nor otherwise worked. However, rice, husked, milled, polished, glazed, parboiled, converted or broken remains classified in this Chapter.";

(*4*) in Heading No. 11.02, in column (2), for the words "except husked, glazed, polished or broken rice", the words and figures "except rice falling within Chapter 10" shall be substituted;

(*5*) in Chapter 12,—

(*i*) in Note 2, after the words "seeds of vetches", the brackets and words "(other than those of the species *Vicia Faba*)" shall be inserted;

(*ii*) in Note 3, in item (*d*), for the word "weed-killers", the word "herbicides" shall be substituted;

(6) in Heading No. 12.04/06, in column (2), for the words "chicory roots, fresh or dried, whole or cut, unroasted; hops", the words "hop cones and lupulin" shall be substituted;

(7) in Heading No. 12.07, in column (2),—

(*i*) in the opening paragraph, the word ", betel-nuts" shall be omitted;

(*ii*) Sub-heading No. (3) and the entries relating thereto shall be omitted;

(8) in Heading No. 12.08, in column (2), for the words "Locust beans", the words "Chicory roots, fresh or dried, whole or cut, unroasted; locust beans" shall be substituted;

(9) in Chapter 13, for the title, the title *"Lacs; gums, resins and other vegetable saps and extracts"* shall be substituted;

(10) Heading No. 13.01 and the entries relating thereto shall be omitted;

(11) for Heading No. "13.02" in column (1), the Heading No. "13.01/02" shall be substituted;

(12) in Chapter 14, in the title, the words *"and carving"* shall be omitted;

(13) in Chapter 15,—

(*i*) in Note 1, for item (*b*), the following item shall be substituted, namely:—

"(*b*) cocoa butter (fat or oil) (Chapter 18);";

(*ii*) in Note 2, for the word "drugs", the word "dregs" shall be substituted;

(14) in Heading No. 15.08/13, in column (2),—

(*i*) for the words "animal or vegetable oils", the words "animal or vegetable oils and fats" shall be substituted;

(*ii*) the word "degras," shall be omitted;

(*iii*) for the words "animal fats", the words "edible fats" shall be substituted;

(15) in Heading No. 15.14/17, in column (2), after the words "not coloured;", the word "degras;" shall be inserted;

(16) in Heading No. 16.01/05, in column (2), for the words "Prepared or preserved meat", the words "Sausages and the like, of meat, meat offal or animal blood; other prepared or preserved meat" shall be substituted;

(17) in Heading No. 17.02, for the entry in column (2), the entry "Other sugars in solid form including glucose and lactose; sugar syrups, not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel" shall be substituted;

(18) in Heading No. 17.04/05, in column (2), the words "; flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion" shall be omitted;

(19) in Heading No. 18.01/06, in column (2), for the words "cocoa butter", the words and brackets "cocoa butter (fat or oil)" shall be substituted;

(20) in Heading No. 19.01/08, in column (2), for the words "ordinary and fine bakers' wares", the words "communion wafers, cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products; ordinary and fine bakers' wares" shall be substituted;

(21) in Chapter 21, in Note 1,—

(i) in item (c), the word "or" occurring at the end shall be omitted;

(ii) in item (d), the word "or" shall be inserted at the end;

(iii) after item (d), as so amended, the following item shall be inserted, namely:—

"(e) Prepared enzymes (Chapter 35).";

(22) in Chapter 25,—

(i) in Note 2, for item (g), the following item shall be substituted, namely:—

"(g) cultured crystals (other than optical elements) weighing not less than two and a half grams each, of sodium chloride or of magnesium oxide, of Chapter 38; optical elements of sodium chloride or of magnesium oxide (Heading No. 90.01); or";

(ii) in Note 3,—

(a) for item (e), the following item shall be substituted, namely:—

"(e) natural magnesium carbonate (magnesite); fused magnesia; dead-burnied (sintered) magnesia, whether or not containing small quantities of other oxides added before sintering; other magnesium oxide, whether or not chemically pure;";

(b) in item (k), after the words "after moulding", the words "; natural micaceous iron oxides; jet" shall be inserted;

(23) in Chapter 28,—

(i) in Note 1, in the opening paragraph, for the words "Except where their context or these Notes otherwise require", the words "Except where the context or these Notes otherwise requires or require" shall be substituted;

(ii) in Note 2, in item (a),—

(a) in sub-item (xii), the word "and" occurring at the end shall be omitted;

(b) after sub-item (xiii), the following sub-items shall be inserted, namely:—

"(xiv) phosphides, carbides, hydrides, nitrides, azides, silicides and borides, whether or not chemically defined;

(xv) phosphorus pentoxide and phosphoric acids;

(xvi) red lead and orange lead;

(xvii) polysulphides;

(xviii) commercial ammonium carbonate containing ammonium carbamate; and

(xix) commercial sodium and potassium silicates.";

(iii) in Note 3,—

(a) for item (a), the following item shall be substituted, namely:—

"(a) sodium chloride and magnesium oxide, whether or not chemically pure, and other products falling within Section V;";

(b) in item (e), the words "of magnesium oxide or" shall be omitted;

(c) in item (f), after the words "and precious metals", the words "and precious metal alloys" shall be inserted;

(d) in item (g), after the words "chemically pure", the words "and metal alloys" shall be inserted;

(e) in item (h), the words "of magnesium oxide or" shall be omitted;

(24) in Heading No. 28.01/58, in Sub-heading No. (13), in column (2), after the words "Magnesium compounds", the brackets and words "(other than magnesium oxide, whether or not chemically pure)" shall be inserted;

(25) in Chapter 29,—

(i) in Note 1,—

(a) in item (c), sub-item (ii) shall be omitted and sub-items (iii) to (vii) shall be renumbered respectively as sub-items (ii) to (vi);

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

"(h) the following products, diluted to standard strengths, for the production of azo dyes: diazonium salts, couplers used for these salts and diazotisable amines and their salts.";

(ii) in Note 3,—

(a) after item (f), the following item shall be inserted, namely:—

"(g) enzymes (Chapter 35);";

(b) existing item (g) shall be relettered as item (h);

(c) existing item (h) shall be relettered as item (ij);

(d) existing item (ij) shall be relettered as item (k);

(26) in Heading No. 29.01/45, in column (2), in the opening paragraph, the word "enzymes," shall be omitted;

(27) in Chapter 32, for Note 2, the following Note shall be substituted, namely:—

"2. Heading No. 32.04/12 is to be taken to include mixtures of stabilised diazonium salts and couplers for the production of azo dyes.";

(28) in Heading No. 32.04/12, in column (2), for the words "prepared pigments", the words "prepared pigments and prepared opacifiers" shall be substituted;

(29) in Chapter 35,—

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

"*Albuminoidal substances; glues; enzymes*";

(ii) for Note 1, the following Note shall be substituted, namely:—

"1. This Chapter does not cover:

(a) yeasts (Chapter 21);

(b) medicaments (Heading No. 30.03);

(c) enzymatic preparations for pre-tanning (Heading No. 32.01/03);

(d) enzymatic soaking or washing preparations and other products of Chapter 34; or

(e) gelatin products of the printing industry (Chapter 49).";

(iii) after Note 2, the following Note shall be inserted, namely:—

"3. This Chapter also covers products suitable for use as glues put up for sale by retail as glues in packages not exceeding a net weight of 1 kilogram.";

(30) for Heading No. "35.01/06" in column (1), the Heading No. "35.01/07" shall be substituted, and in Heading No. 35.01/07, as so amended, in column (2), for the words "glues not elsewhere specified or included", the words "enzymes; prepared enzymes and glues not elsewhere specified or included" shall be substituted;

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(*31*) in Chapter 36, in Note 2, for the words "Other combustible products" applies only to the following articles', the words 'The expression "articles of combustible materials" in this Chapter is to be taken to apply only to' shall be substituted;

(*32*) in Heading No. 36.01/08, in column (2),—

(*i*) for the words "Explosives including detonators and blasting fuses", the words "Explosives including percussion and detonating caps; igniters; detonators; detonating and safety fuses" shall be substituted;

(*ii*) for the words "other combustible products", the words "articles of combustible materials" shall be substituted;

(*33*) in Chapter 38, in Note 1, in item (*a*), in sub-item (2),—

(*i*) for the word "weed-killers", the word "herbicides" shall be substituted;

(*ii*) after the word "rat-poisons", the words ", plant-growth regulators" shall be inserted;

(*34*) in Chapter 39, in Note 1, in item (*g*), for the words "riding-crops, fans or parts thereof", the words "riding-crops or parts thereof" shall be substituted;

(*35*) in Heading No. 40.05/16, in column (2), after the words "vulcanised or hardened, not elsewhere specified;", the words "vulcanised rubber thread and cord, whether or not textile covered, and textile thread covered or impregnated with vulcanised rubber;" shall be inserted;

(*36*) in Chapter 44,—

(*i*) in Note 1, in item (*b*), for the brackets, word, letters and figures "(Heading No. 13.01)", the brackets, word and figures "(Chapter 14)" shall be substituted;

(*ii*) in Note 3, for the words "descriptions of plywood", the words "descriptions of fibre building board, plywood" shall be substituted;

(*37*) in Heading No. 48.01/21, in column (2), the words "building board of wood pulp or vegetable fibre whether or not bonded with natural or artificial resins or similar binders;" shall be omitted;

(*38*) in Section XI,—

(*i*) in Note 2, for paragraphs (*A*) and (*B*), the following paragraphs shall be substituted, namely:—

"(*A*) Goods classifiable in any Heading in Chapters 50 to 57 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates in weight over any other single textile material.

(*B*) For the purposes of the above rule:

(*a*) metallised yarn is to be treated as a single textile material and its weight is to be taken as the aggregate of the weight of the textile and metal components; for the classification of woven fabrics, metal thread is to be regarded as a textile material;

(*b*) where a Heading refers to goods of different textile materials [for example: (*i*) silk and waste silk, (*ii*) carded sheep's or lambs' wool and combed sheep's or lambs' wool], such materials are to be treated as a single textile material.";

(*ii*) after Note 5, the following Note shall be inserted, namely:—

"6. The woven fabrics of Chapters 50 to 57 are to be taken to include fabrics consisting of layers of parallel textile yarns superimposed on each other at acute or right angles. These layers are bonded at the intersections of the yarns by an adhesive or by thermal bonding.";

(*39*) in Heading No. 50.09/10, for Sub-heading No. (2) in column (2), the following Sub-heading shall be substituted, namely:—

"(2) Fabrics, not elsewhere specified";

(*40*) in Heading No. 57.05/08, in column (2), the words "of hemp," shall be omitted;

(*41*) in Heading No. 57.09/12, in column (2), the words "of hemp," shall be omitted;

(*42*) in Chapter 59,—

(*i*) Note 1 shall be lettered as paragraph (*A*) of that Note and after paragraph (*A*) as so lettered, the following paragraph shall be inserted, namely:—

'(*B*) Throughout this Schedule, the term "felt" is to be taken to include fabrics consisting of a web of textile fibres the cohesion of which has been enhanced by a stitch-bonding process using fibres from the web itself.';

(*ii*) in Note 4, in item (*a*), in sub-item (*iv*), for the words "felts, whether or not", the words "fabrics, whether or not felted," shall be substituted;

(*43*) in Chapter 60, after Note 4, the following Note shall be inserted, namely:—

"5. Throughout this Schedule, any reference to knitted goods shall be taken to include a reference to stitch-bonded goods in which the chain stitches are formed of textile yarn.";

(*44*) in Section XII, in the title, the word "; FANS" shall be omitted;

(*45*) in Heading No. 66.01/03, in column (2), for the words "walking-sticks and the like", the words "walking-sticks, canes, whips, riding-crops and the like" shall be substituted;

(*46*) in Chapter 67,—

(*i*) in the title, the word "*; fans*" shall be omitted;

(*ii*) in the Note, in item (*e*), the words "feather dusters," shall be omitted;

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(*47*) in Heading No. 67.01/05, in column (2),—

(*i*) after the words "wigs and the like, and animal hair", the words "and other textile materials" shall be inserted;

(*ii*) the words and brackets "; fans (non-mechanical)" shall be omitted;

(*48*) in Chapter 68, in the Note, in item (*k*), after the word and figures "Chapter 95", the words, figures, brackets and letter ", if made of materials specified in Note 2(*b*) to Chapter 95" shall be inserted;

(*49*) in Chapter 71,—

(*i*) in Note 2,—

(*a*) item (*ij*) shall be omitted;

(*b*) item (*k*) shall be relettered as item (*ij*);

(*c*) items (*l*) to (*q*) shall be relettered respectively as items (*k*) to (*p*);

(*ii*) in Note 4, in the opening paragraph, after the words "sintered mixture", the words "and an intermetallic compound" shall be inserted;

(*50*) in Section XV,—

(*i*) in Note 1, in item (*d*), for the words "walking-sticks and the like", the words "walking-sticks, canes, whips, riding-crops and the like" shall be substituted;

(*ii*) for Note 3, the following Note shall be substituted, namely:—

"3. Classification of alloys (other than ferro-alloys and master alloys as defined in Chapters 73 and 74):

(*a*) an alloy of base metals is to be classified as an alloy of the metal which predominates by weight over each of the other metals;

(*b*) an alloy composed of base metals of this Section and of elements not falling within this Section is to be treated as an alloy of base metals of this Section if the total weight of such metals equals or exceeds the total weight of the other elements present;

(*c*) in this Section, the term "alloys" is to be taken to include sintered mixtures of metal powders, heterogeneous intimate mixtures obtained by melting (other than cermets) and intermetallic compounds.";

(*51*) in Heading No. 74.09/19, in column (2), for the words "Other articles of copper", the words "Other articles of copper including nails, tacks, staples, hook-nails, spiked cramps, studs, spikes and drawing pins of iron or steel with heads of copper" shall be substituted;

(*52*) in Chapter 76, in Note 1, in item (*c*), for the figures and word "0.15 millimetre", the figures and word "0.20 millimetre" shall be substituted;

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(53) in Heading No. 81.01/04, in column (2), for the words "other based metals, wrought or unwrought", the words "other base metals and cermets, wrought or unwrought" shall be substituted;

(54) in Section XVI, in Note 1,—

(*i*) in item (*a*), after the words "electrical appliances", the words "or for other industrial purposes" shall be inserted;

(*ii*) in item (*b*), for the words "for industrial purposes", the words "for other industrial purposes" shall be substituted;

(55) in Heading No. 84.04/05, in column (2), for the words "steam and other vapour power units, not incorporating boilers", the words "steam or other vapour power units, whether or not incorporating boilers" shall be substituted;

(56) in Heading No. 84.59, in Sub-heading No. (2), in column (2), the words ", such as oil, soap or edible fats, artificial plastics, rubber or other similar products, electric wires and cables, ropes, baskets and brushes, cigars and cigarettes" shall be omitted;

(57) in Heading No. 85.11, in column (2), for the words "electric welding, brazing and soldering machines and apparatus and similar electric machines and apparatus for cutting", the words "electric or laser-operated welding, brazing, soldering or cutting machines and apparatus" shall be substituted;

(58) in Heading No. 85.18/27, in column (2),—

(*i*) in the opening paragraph,—

(*a*) the words "and electrically ignited photographic flash bulbs" shall be omitted;

(*b*) after the words "semi-conductor devices;", the words "light-emitting diodes;" shall be inserted;

(*ii*) in Sub-heading No. (4), the words "; electrically ignited photographic flash bulbs" shall be omitted;

(59) in Heading No. 87.09/12, in column (2),—

(*i*) in the opening paragraph, for the words and brackets "invalid carriages fitted with means of mechanical propulsion (motorised or not)", the words "; invalid carriages, whether or not motorised or otherwise mechanically propelled" shall be substituted;

(*ii*) for Sub-heading No. (3), the following Sub-heading shall be substituted, namely:—

"(3) Invalid carriages, whether or not motorised or otherwise mechanically propelled, and parts and accessories thereof";

(60) for Heading No. 87.13/14 and the entry in column (2), the following shall be substituted, namely:—

"87.13/14 Other vehicles (including trailers and baby carriages), not mechanically propelled and parts thereof";

(*61*) in Heading No. 89.01/03, in column (2), after the words "floating docks", the words "; floating or submersible drilling or production platforms" shall be inserted;

(*62*) in Section XVIII, in the title, for the words "SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, MAGNETIC", the words "SOUND RECORDERS OR REPRODUCERS; TELEVISION IMAGE AND SOUND RECORDERS OR REPRODUCERS" shall be substituted;

(*63*) in Heading No. 90.07, in column (2), after the words "flash-light apparatus", the words and figures "and flash bulbs other than discharge lamps of Heading No. 85.18/27" shall be inserted;

(*64*) in Heading No. 90.13, in column (2), after the words "this Chapter", the words "; lasers, other than lasen diodes" shall be inserted;

(*65*) in Chapter 92, in the title, for the words "*sound recorders and reproducers; television image and sound recorders and reproducers, magnetic*", *the words "sound recorders or reproducers; television image and sound recorders or reproducers" shall be substituted;*

(*66*) in Heading No. 92.01/13, in column (2), for the words "recorders and reproducers, magnetic", the words "recorders or reproducers" shall be substituted;

(*67*) in Chapter 95,—

(*i*) for the word "NOTE", the word "NOTES" shall be substituted;

(*ii*) the existing Note shall be numbered as Note 1, and in Note 1 as so numbered,—

(*a*) item (*b*) shall be omitted;

(*b*) items (*c*) to (*ij*) shall be relettered respectively as items (*b*) to (*h*);

(*c*) item (*k*) shall be relettered as item (*ij*);

(*d*) items (*l*) to (*n*) shall be relettered respectively as items (*k*) to (*m*);

(*iii*) after Note 1 as so numbered, the following Note shall be inserted, namely:—

'2. In this Chapter, the expression "vegetable or mineral carving material" is to be taken to apply to:

(*a*) hard seeds, pips, hulls and nuts and similar vegetable materials of a kind used for carving (for example, corozo and dom);

(*b*) jet (and mineral substitutes for jet), amber, meerschaum, agglomerated amber and agglomerated meerschaum.';

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(68) in Heading No. 95.01/08, for the words "worked unhardened gelatin", the words "worked vegetable or mineral carving material and worked unhardened gelatin" shall be substituted;

(69) in Chapter 96, in the title, the words "*feather dusters*", shall be omitted;

(70) in Heading No. 96.01/06, in column (2), the words "feather dusters;" shall be omitted;

(71) in Heading No. 98.12/14, in column (2), the words "corset busks and similar supports for articles of apparel or clothing accessories;" shall be omitted;

PART II

Heading No.	Sub-heading No. and description of article	Rate of duty		Duration when rates of duty are protective
		Standard	Preferential Areas	
(1)	(2)	(3)	(4)	(5)

In the First Schedule to the principal Act,—

(*i*) in Heading No. 08.01/13, after Sub-heading No. (5), the following Sub-heading shall be inserted, namely:—

"08.01/13	(6) Betel-nuts	Rs. 3.07 per kilogram	Rs. 3.00 per kilogram	...";

(*ii*) for Heading No. 14.01/05, the following Heading shall be substituted, namely:—

"14.01/05	Vegetable materials of a kind used primarily for ~~painting~~ plait-ing, stuffing or in brushes or in brooms; vegetable products not elsewhere specified or included:			
	(1) Not elsewhere specified	60%	..	..
	(2) Raw vegetable materials of a kind used primarily in dyeing or in tanning	40%	..	...";

(*iii*) for Heading No. 17.01, the following Heading shall be substituted, namely:—

"17.01	Beet Sugar and Cane Sugar, in solid form:			
	(1) Not elsewhere specified	60%	..	..
	(2) Flavoured or coloured	100%	..	...";

(*iv*) for Heading No. 17.03, the following Heading shall be substituted, namely:—

"17.03	Molasses:			
	(1) Not elsewhere specified	60%	..	..
	(2) Flavoured or coloured	100%	..	..".

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(v) after Heading No. 27.14/16, the following Heading shall be inserted, namely:—

"27.17	Electric current	Free	

(vi) for Heading Nos. 32.01/03 and 32.02/03, the following Heading shall be substituted, namely:—

"32.01/03	Tanning extracts of vegetable origin, tanning (tannic acids) and their derivatives, synthetic organic tanning substances and inorganic tanning substances; tanning preparations, whether or not containing natural tanning materials;			
	Enzymatic preparations for pre-tanning (for example of enzymatic, pancreatic or bacterial origin):			
	(1) Not elsewhere specified	60%	..	..
	(2) Gambier	60%	50%	..
	(3) Mineral tanning and tanning, extracts of vegetable origin other than Gambier	40%	..	..

(vii) for Heading No. 39.01/06, the following Heading shall be substituted, namely:—

"29.01/06	Condensation, polycondensation and polyaddition products, whether or not modified or polymerised, and whether or not linear (for example, phenoplasts, aminoplasts, alkyds, polyallyl esters and other unsaturated polyesters, silicones); polymerisation and co-polymerisation products (for example, polyethylene, polytetrahalo-ethylenes, polyisobutylene, polystyrene, polyvinylchloride, polyvinyl acetate, polyvinyl chloroacetate and other polyvinyl derivatives, polyacrylic and polymethacrylic derivatives, coumarone-indene resins); regenerated cellulose; cellulose nitrate, cellulose acetate and other cellulose esters, cellulose ethers and other chemical derivatives of cellulose, plasticised or not (for example, collodions, celluloid); vulcanised fibre; hardened proteins (for example, hardened case in and hardened gelatin); natural resins modified by fusion (run gums); artificial resins obtained by esterification of natural resins or of resinic acids (ester gums); chemical derivatives of natural rubber (for example, chlorinated rubber, rubber hydrochloride, oxidised rubber, cyclised rubber); other high polymers, artificial resins and artificial plastic materials, including alginic acid, its salts and esters; linoxyn	100%	..	..

(1)	(2)	(3)	(4)	(5)
(*viii*) for Heading No. 44.01/28, the following Heading shall be substituted, namely:—				
"44.01/28	Wood in the rough, fuel wood, woodwaste and wood charcoal; wood flour and wood wool; sawn and dressed timber; veneered wood, plywood, cellular wood, improved, wood and reconstituted wood; fibre, building board of wood or other vegetable material, whether or not bonded with natural or artificial resins or with other organic binders; spools, bobbins and the like of turned wood; articles of wood, not elsewhere specified;			
	(1) Not elsewhere specified	60%	..	
	(2) Fibre building board of wood or other vegetable material, whether or not bonded with natural or artificial resins or with other organic binders	100%	..	...";
(*ix*) for Heading Nos. 50.03/07 and 50.08, the following Heading shall be substituted, namely:—				
"50.03/08	Silk waste (including cocoons unsuitable for reeling, silk noils and pulled or garnetted rags); silk yarn; silk worm gut and imitation catgut of silk:			
	(1) Not-elsewhere specified	50% *plus* Rs. 8.80 per kilogram	..	December 31st, 1979.
	(2) Silk worm gut and imitation catgut of silk.	100%	..	...";

Rep. by Act 19 of 1988, s. 28 Sch. I

THE MAINTENANCE OF INTERNAL SECURITY (REPEAL) ACT, 1978

No. 27 OF 1978

[3rd August, 1978].

An Act to repeal the Maintenance of Internal Security Act, 1971.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Maintenance of Internal Security (Repeal) Act, 1978.

Repeal of Act 26 of 1971.

2. The Maintenance of Internal Security Act, 1971, is hereby repealed.

Rep. by Act 19 of 1988, s. 28 Sch. I

THE INSOLVENCY LAWS (AMENDMENT) ACT, 1978

No. 28 OF 1978

[4th August, 1978.]

An Act further to amend the Presidency-towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Insolvency Laws (Amendment) Act, 1978.

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

Amendment of Act 3 of 1909.

2. In the Presidency-towns Insolvency Act, 1909,—

(a) section 9 (excluding the *Explanation*) shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) Without prejudice to the provisions of sub-section (1), a debtor commits an act of insolvency if a creditor, who has obtained a decree or order against him for the payment of money (being a decree or order which has become final and the execution whereof has not been stayed), has served on him a notice (hereafter in this section referred to as the insolvency notice) as provided in sub-section (3) and the debtor does not comply with that notice within the period specified therein:

Provided that where a debtor makes an application under sub-section (5) for setting aside an insolvency notice—

(a) in a case where such application is allowed by the Court, he shall not be deemed to have committed an act of insolvency under this sub-section; and

(b) in a case where such application is rejected by the Court, he shall be deemed to have committed an act of insolvency under this sub-section on the date of rejection of the application or the expiry of the period specified in the insolvency notice for its compliance, whichever is later:

Provided further that no insolvency notice shall be served on a debtor residing, whether permanently or temporarily, outside India, unless the creditor obtains the leave of the Court therefor.

(3) An insolvency notice sub-section (2) shall—

(a) be in the prescribed form;

(b) be served in the prescribed manner;

(c) specify the amount due under the decree or order and require the debtor to pay the same or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent;

(d) specify for its compliance a period of not less than one month after its service on the debtor or, if it is to be served on a debtor residing, whether permanently or temporarily, outside India, such period (being not less than one month) as may be specified by the order of the Court granting leave for the service of such notice;

(e) state the consequences of non-compliance with the notice.

(4) No insolvency notice shall be deemed to be invalid by reason only that the sum specified therein as the amount due under the decree or order exceeds the amount actually due, unless the debtor, within the period specified in the insolvency notice for its compliance, gives notice to the creditor that the sum specified in the insolvency notice does not correctly represent the amount due under the decree or order:

Provided that if the debtor does not give any such notice as aforesaid, he shall be deemed to have complied with the insolvency notice if, within the period specified therein for its compliance, he takes such steps as would have constituted a compliance with the insolvency notice had the actual amount due been correctly specified therein.

(5) Any person served with an insolvency notice may, within the period specified therein for its compliance, apply to the Court to set aside the insolvency notice on any of the following grounds, namely:—

(a) that he has a counter-claim or set-off against the creditor which is equal to or is in excess of the amount due under the decree or order and which he could not, under any law for the time being in force, prefer in the suit or proceeding in which the decree or order was passed;

(b) that he is entitled to have the decree or order set aside under any law providing for the relief of Indebtedness and that—

(i) he has made an application before the competent authority under such law for the setting aside of the decree or order; or

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(*ii*) the time allowed for the making of such application has not expired;

(*c*) that the decree or order is not executable under the provisions of any law referred to in clause (*b*) on the date of the application.";

(*b*) in section 112, in sub-section (*2*), after clause (*m*), the following clause shall be inserted, namely:—

"(*mm*) the form of the insolvency notice under clause (*a*), and the manner in which such notice may be served under clause (*b*), of sub-section (*3*) of section 9;".

3. In the Provincial Insolvency Act, 1920,— Amendment of Act 5 of 1920.

(*a*) section 6 (excluding the *Explanation*) shall be renumbered as sub-section (*1*) thereof, and after sub-section (*1*) as so renumbered, the following sub-sections shall be inserted, namely:—

"(*2*) Without prejudice to the provisions of sub-section (*1*), a debtor commits an act of insolvency if a creditor, who has obtained a decree or order against him for the payment of money (being a decree or order which has become final and the execution whereof has not been stayed), has served on him a notice (hereafter in this section referred to as the insolvency notice) as provided in sub-section (*3*) and the debtor does not comply with that notice within the period specified therein:

Provided that where a debtor makes an application under sub-section (*5*) for setting aside an insolvency notice—

(*a*) in a case where such application is allowed by the District Court, he shall not be deemed to have committed an act of insolvency under this sub-section; and

(*b*) in a case where such application is rejected by the District Court, he shall be deemed to have committed an act of insolvency under this sub-section on the date of rejection of the application or the expiry of the period specified in the insolvency notice for its compliance, whichever is later:

Provided further that no insolvency notice shall be served on a debtor residing, whether permanently or temporarily, outside India, unless the creditor obtains the leave of the District Court therefor.

(*3*) An insolvency notice under sub-section (*2*) shall—

(*a*) be in the prescribed form;

(*b*) be served in the prescribed manner;

(*c*) specify the amount due under the decree or order and require the debtor to pay the same or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent;

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(*d*) specify for its compliance a period of not less than one month after its service on the debtor or, if it is to be served on a debtor residing, whether permanently or temporarily, outside India, such period (being not less than one month) as may be specified by the order of the District Court granting leave for the service of such notice;

(*e*) state the consequences of non-compliance with the notice.

(*4*) No insolvency notice shall be deemed to be invalid by reason only that the sum specified therein as the amount due under the decree or order exceeds the amount actually due, unless the debtor, within the period specified in the insolvency notice for its compliance, gives notice to the creditor that the sum specified in the insolvency notice does not correctly represent the amount due under the decree or order:

Provided that if the debtor does not give any such notice as aforesaid, he shall be deemed to have complied with the insolvency notice if, within the period specified therein for its compliance, he takes such steps as would have constituted a compliance with the insolvency notice had the actual amount due been correctly specified therein.

(*5*) Any person served with an insolvency notice may, within the period specified therein for its compliance, apply to the District Court to set aside the insolvency notice on any of the following grounds, namely:—

(*a*) that he has a counter-claim or set-off against the creditor which is equal to or is in excess of the amount due under the decree or order and which he could not, under any law for the time being in force, prefer in the suit or proceeding in which the decree or order was passed;

(*b*) that he is entitled to have the decree or order set aside under any law providing for the relief of indebtedness and that—

(*i*) he has made an application before the competent authority under such law for the setting aside of the decree or order; or

(*ii*) the time allowed for the making of such application has not expired;

(*c*) that the decree or order is not executable under the provisions of any law referred to in clause (*b*) on the date of the application.";

(*b*) in section 79, in sub-section (*2*), clause (*a*) shall be relettered as clause (*aa*) thereof, and before clause (*aa*) as so relettered, the following clause shall be inserted, namely:—

"(*a*) the form of the insolvency notice under clause (*a*), and the manner in which such notice may be served under clause (*b*), of sub-section (*3*) of section 6;".

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE TAXATION LAWS (AMENDMENT) ACT, 1978

No. 29 OF 1978

[5th August, 1978.]

An Act further to amend the Income-tax Act, 1961 and the Wealth-tax Act, 1957.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1978. Short title and commencement.

(2) It shall come into force on the 1st day of April, 1979.

2. In the Income-tax Act, 1961,— Amendment of Act 43 of 1961.

(a) in Chapter III, after section 13, the following section shall be inserted, namely:—

'13A. Any income of a political party which is chargeable under the head "Interest on securities", "Income from house property" or "Income from other sources" or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party. Special provision relating to incomes ~~or~~ of political parties.

Provided that—

(a) such political party keeps and maintains such books of account and other documents as would enable the Income-tax Officer to properly deduce its income therefrom;

(b) in respect of each such voluntary contribution in excess of ten thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; and

(c) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

Explanation.—For the purposes of this section, "political party" means an association or body of individual citizens of India registered with the Election Commission of India as a political

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party under paragraph 3 of the Election Symbols (Reservation and Allotment) Order, 1968 and includes a political party deemed to be registered with that Commission under the proviso to sub-paragraph (*2*) of that paragraph.';

(*b*) in section 37,—

(*i*) after sub-section (*2A*), the following sub-section shall be inserted, namely:—

"(*2B*) Notwithstanding anything contained in sub-section (*1*), no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.";

(*ii*) in sub-section (*3A*) (as directed to be inserted by section 8 of the Finance Act, 1978),— 19 of 1978.

(*1*) for the words, brackets and figure "the provisions of sub-section (*3*)", the words, brackets, figures and letter "the provisions of sub-section (*2B*) or sub-section (*3*)" shall be substituted;

(*2*) in the *Explanation*, in clause (*a*), for the words, brackets and figure "under sub-section (*3*)", the words, brackets, figures and letter "under sub-section (*2B*), or sub-section (*3*), or both" shall be substituted;

(*c*) in section 139, after sub-section (*4A*), the following sub-section shall be inserted, namely:—

"(*4B*) The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every political party shall, if the total income in respect of which the political party is assessable (the total income for this purpose being computed under this Act without giving effect to the provisions of section 13A) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act, shall, so far as may be, apply as if it were a return required to be furnished under sub-section (*1*).".

Amendment of Act 27 of 1957.

3. In the Wealth-tax Act, 1957, in section 45, after clause (*h*), the following clause and *Explanation* shall be inserted, namely:—

'(*i*) any political party.

Explanation.—For the purposes of clause (*i*), "political party" shall have the meaning assigned to it in the *Explanation* to section 13A of the Income-tax Act.'.

THE COAST GUARD ACT, 1978

ARRANGEMENT OF SECTIONS

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THE COAST GUARD ACT, 1978

No. 30 OF 1978

[18*th August*, 1978.]

An Act to provide for the constitution and regulation of an Armed Force of the Union for ensuring the security of the maritime zones of India with a view to the protection of maritime and other national interests in such zones and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Coast Guard Act, 1978.

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

Definitions.

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

(a) "Chief Law Officer" and "Law Officer" mean, respectively, the Chief Law Officer and a Law Officer of the Coast Guard appointed under section 115;

(b) "civil offence" means an offence which is triable by a criminal court;

9 of 1894.

(c) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force;

(d) "Coast Guard" means the Coast Guard constituted under this Act;

(e) "Coast Guard Court" means a court convened under section 64;

(f) "Coast Guard custody" means the arrest or confinement of a member of the Coast Guard according to rules;

(g) "Commanding Officer", when used in any provision of this Act with reference to any unit or ship of the Coast Guard, means the officer whose duty it is under the rules to discharge with respect to that unit or ship, the functions of a Commanding Officer in regard to matters of the description referred to in that provision:

[1] 19-8-1978: *vide* Notification No. S.R.O. 10(E), dated 18-8-1978, Gazette of India, Part II, Section 4, p. 16.

(*h*) "criminal court" means a court of ordinary criminal justice in any part of India;

(*i*) "Deputy Inspector-General" means a Deputy Inspector-General of the Coast Guard appointed under section 5;

(*j*) "Director-General" means the Director-General of the Coast Guard appointed under section 5;

(*k*) "enrolled person" means a subordinate officer, sailor or other person enrolled under this Act;

(*l*) "Inspector-General" means an Inspector-General of the Coast Guard appointed under section 5;

(*m*) "maritime zones of India" means the territorial waters, the contiguous zone, the continental shelf, the exclusive economic zone or any other maritime zone of India;

(*n*) "member of the Coast Guard" means an officer, a subordinate officer, a sailor or other enrolled person;

(*o*) "notification" means a notification published in the Official Gazette;

(*p*) "offence" means any act or omission punishable under this Act and includes a civil offence;

(*q*) "officer" means a person appointed or in pay as an officer of the Coast Guard, but does not include a subordinate officer, sailor or other enrolled person;

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

(*s*) "rule" means a rule made under this Act;

(*t*) "sailor" means a member of the Coast Guard other than an officer, a subordinate officer or other enrolled person;

(*u*) "ship", except in the expression "on board a ship", means a Coast Guard vessel, and includes any establishment or station belonging to, or under the control of, the Coast Guard whether within or without India;

(*v*) "skipper" means a subordinate officer in command of a ship;

(*w*) "subordinate officer" means a person appointed or in pay as a *Pradhan Adhikari*, a *Pradhan Sahayak* Engineer, an *Uttam Adhikari*, an *Uttam Sahayak* Engineer, an *Adhikari* or a *Sahayak* Engineer of the Coast Guard;

(*x*) "superior officer", when used in relation to a person subject to this Act, means any officer or subordinate officer—

(*i*) who is senior to that person under the rules; or

(*ii*) who is entitled under this Act or the rules to give a command to that person;

(y) "territorial waters", "contiguous zone", "continental shelf" and "exclusive economic zone", shall have the meanings respectively assigned to them in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976;

80 of 1976.

(z) all words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings assigned to them in that Code.

45 of 1860.

3. (1) The following persons shall be subject to this Act, wherever they may be, namely:— Persons subject to this Act.

(a) officers;

(b) subordinate officers and other persons enrolled under this Act;

(c) persons who have, by a general or special order of the Central Government, been required to serve in a ship, to such extent and subject to such conditions as may be prescribed; and

(d) persons ordered to be received, or being passengers, on board any ship or aircraft of the Coast Guard, to such extent and subject to such conditions as may be prescribed.

(2) Every person referred to in clauses (a) and (b) of sub-section (1) shall remain so subject until he retires, or he is discharged, released, removed or dismissed from the Coast Guard in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE COAST GUARD AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE COAST GUARD

4. (1) There shall be an armed force of the Union called the Coast Guard for ensuring the security of the maritime zones of India with a view to the protection of maritime and other national interests in such zones. Constitution of the Coast Guard.

(2) Subject to the provisions of this Act, the Coast Guard shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Coast Guard shall be such as may be prescribed.

5. (1) The general superintendence, direction and control of the Coast Guard shall vest in, and be exercised by, the Central Government and subject thereto, and to the provisions of this Act and the rules, the command and supervision of the Coast Guard shall vest in an officer to be appointed by the Central Government as the Director-General of the Coast Guard. Control, direction, etc.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Inspectors-General, Deputy Inspectors-General, Commandant and such other officers as may be appointed by the Central Government.

6. (1) The persons to be enrolled to the Coast Guard, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed. Enrolment.

(2) Notwithstanding anything contained in this Act and the rules, every person who has, for a continuous period of three months, been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Coast Guard shall be deemed to have been duly enrolled.

Liability for service outside India.

7. Every member of the Coast Guard shall be liable to serve in any part of India as well as outside India.

Oath of allegiance.

8. Every member of the Coast Guard shall, as soon as may be, after appointment or enrolment to the Coast Guard, make and subscribe before his Commanding Officer or other prescribed officer, an oath or affirmation in the prescribed form.

Resignation and withdrawal from the post.

9. No member of the Coast Guard shall be at liberty—

(*a*) to resign his appointment during the term of his engagement; or

(*b*) to withdraw himself from all or any of the duties of his appointment,

except with the previous permission in writing of the prescribed authority.

Tenure of service under the Act.

10. Every member of the Coast Guard shall hold office during the pleasure of the President.

Dismissal or removal by Central Government and by other officers.

11. Subject to the provisions of this Act and the rules—

(*a*) the Central Government may dismiss or remove from service any member of the Coast Guard;

(*b*) the Director-General or any Inspector-General may dismiss or remove from the Coast Guard any person other than an officer;

(*c*) any prescribed officer not below the rank of a Deputy Inspector-General may dismiss or remove from the Coast Guard any person under his command other than an officer or a subordinate officer.

Certificate of termination of service.

12. An enrolled person who retires, or is discharged, released, removed or dismissed from the Coast Guard or permitted to resign therefrom, shall be furnished by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—

(*a*) the authority terminating his service;

(*b*) the reasons for such termination; and

(*c*) the full period of his service in the Coast Guard.

Restrictions respecting right to form association, freedom of speech, etc.

13. (*1*) No member of the Coast Guard shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(*a*) be a member of, or be associated in any way with, any trade union, labour union, or political association; or

(*b*) be a member of, or be associated in any way with, any society, institution, association or organisation that is not recognised as part of the Coast Guard or is not of a purely social, recreational or religious nature; or

(*c*) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the *bona fide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (*b*) of this sub-section, the decision of the Central Government thereon shall be final.

(*2*) No member of the Coast Guard shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be specified in this behalf by the Central Government.

CHAPTER III

DUTIES AND FUNCTIONS OF THE COAST GUARD

Duties and functions of Coast Guard.

14. (*1*) It shall be the duty of the Coast Guard to protect by such measures, as it thinks fit, the maritime and other national interests of India in the maritime zones of India.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the measures referred to therein may provide for—

(*a*) ensuring the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in any maritime zone;

(*b*) providing protection to fishermen including assistance to them at sea while in distress;

(*c*) taking such measures as are necessary to preserve and protect the maritime environment and to prevent and control marine pollution;

(*d*) assisting the customs and other authorities in anti-smuggling operations;

(*e*) enforcing the provisions of such enactments as are for the time being in force in the maritime zones; and

(*f*) such other matters, including measures for the safety of life and property at sea and collection of scientific data, as may be prescribed.

(*3*) The Coast Guard shall perform its functions under this section in accordance with, and subject to such rules as may be prescribed and such rules may, in particular, make provisions for ensuring that the Coast Guard functions in close liaison with Union agencies, institutions and authorities so as to avoid duplication of effort.

CHAPTER IV

OFFENCES

Correspondence, etc., with offenders.

15. Any person subject to this Act, who,—

(*a*) treacherously holds correspondence with, or communicates intelligence to, an offender; or

(*b*) wilfully fails to make known to the proper authorities any information he may have received from an offender; or

(*c*) assists the offender in any manner; or

(*d*) having been captured by an offender, voluntarily serves with or aids him,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Explanation.—For the purposes of this section, "offender" includes—

(*a*) all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to this Act to take action; and

(*b*) any person or persons engaged in smuggling, unlawful exploration or exploitation or any other unlawful activity in the maritime zones of India.

Deserting post and neglect of duty.

16. Any person subject to this Act, who,—

(*a*) deserts his post; or

(*b*) sleeps upon his watch; or

(*c*) fails to perform, or negligently performs, the duty imposed on him; or

(*d*) wilfully conceals any words, practice or design tending to the hindrance of the Coast Guard,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Mutiny.

17. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes or conspires with any other person to cause any mutiny in the Coast Guard or in the military, naval or air forces of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commanding Officer or other superior officer; or

(*e*) endeavours to seduce any person in the Coast Guard or in the military, naval or air forces of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Coast Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned:

Provided that a sentence of death awarded under this section shall not be carried out unless it is confirmed by the Central Government.

Persons on board ship or aircraft seducing Coast Guard personnel from allegiance.

18. Any person not otherwise subject to this Act who, being on board any ship or aircraft belonging to or in the service of the Coast Guard endeavours to seduce any person subject to this Act from his allegiance to the Constitution or loyalty to the State or duty to his superior officers shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Striking or threatening superior officers.

19. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) uses criminal force to or assaults his superior officer; or

(b) uses threatening language to such officer; or

(c) uses insubordinate language to such officer; or

(d) behaves with contempt to such officer,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of offences specified in clauses (c) and (d), the imprisonment shall not exceed five years.

Disobedience to superior officer.

20. (1) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating subordinates.

21. Any person subject to this Act who uses criminal force to or otherwise ill-treats any other person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Quarrelling, fighting and disorderly behaviour.

22. Any person subject to this Act, who,—

(a) quarrels, fights with or strikes any other person, whether such person is or is not subject to this Act; or

(b) uses reproachful or provoking speeches or gestures tending to make a quarrel or disturbance; or

(c) behaves in a disorderly manner,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Certain forms of disgraceful conduct.

23. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) malingers, or feigns, or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Drunkenness.

24. (*1*) Any person subject to this Act, who is guilty of drunkenness shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

(*2*) For the purposes of sub-section (*1*), a person shall be deemed to be guilty of drunkenness if, owing to the influence of alcohol or any drug whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the Coast Guard.

Desertion and aiding desertion.

25. (*1*) Any person subject to this Act, who absents himself from his ship or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who, at any time and under any circumstances when absent from his ship or place of duty does any act which shows that he has an intention of not returning to such ship or place is said to desert.

(*2*) Every person who deserts or attempts to desert the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act, who knowingly harbours any such deserter, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Breaking out of ship and absence without leave.

26. Any person subject to this Act, who without being guilty of desertion improperly leaves his ship or place of duty or is absent without leave shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned, and shall also be punished by such mulcts of pay and allowances as may be prescribed.

Losing ship or aircraft.

27. (*1*) Any person subject to this Act who wilfully loses, strands or hazards or suffers to be lost stranded or hazarded any ship belonging to or in the service of the Coast Guard, or loses or suffers to be lost any aircraft belonging to or in the service of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act, who negligently or by any default loses, strands or hazards or suffers to be lost, stranded or hazarded any ship belonging to or in the service of the Coast Guard, or loses or suffers to be lost any aircraft belonging to or in the service of the Coast Guard

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Dangerous unauthorised flying.

28. Any person subject to this Act who is guilty of any act or neglect in flying or in the use of any aircraft belonging to or in the service of the Coast Guard, or in relation to any such aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall, on conviction by a Coast Guard Court,—

(*a*) if he acts wilfully or with wilful neglect, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned; and

(*b*) in any other case, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Inaccurate certificate.

29. Any person subject to this Act who signs any certificate in relation to an aircraft belonging to or in the service of the Coast Guard or to any material thereof without ensuring its accuracy shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Low flying and annoyance by flying.

30. Any person subject to this Act, being the pilot of an aircraft belonging to or in the service of the Coast Guard, who—

(*a*) flies it at a height lower than the minimum height authorised by his Commanding Officer except while taking off or landing; or

(*b*) flies it so as to cause or likely to cause unnecessary annoyance to any person,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Disobedience of lawful command of captain of an aircraft.

31. Any person subject to this Act, who while he is in an aircraft belonging to or in the service of the Coast Guard, disobeys any lawful command given by the captain of the aircraft whether such captain is subject to this Act or not, in relation to all matters relating to flying or handling of the aircraft or affecting the safety thereof, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

False accusations.

32. Any person subject to this Act, who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(*b*) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false or knowingly or wilfully suppresses any material facts,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Falsifying official documents and false declarations.

33. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false, or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Offences in respect of property.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits theft of any property belonging to the Government or to any Coast Guard mess, or institution, or to any person subject to this Act; or

(*b*) dishonestly misappropriates or converts to his own use any such property; or

(*c*) commits criminal breach of trust in respect of any such property; or

(*d*) dishonestly receives or retains any such property in respect of which any of the offences under clauses (*a*), (*b*) and (*c*) has been committed, knowing or having reason to believe the commission of such offence; or

(*e*) wilfully destroys or damages any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Damage to property.

35. Any person subject to this Act, who commits any act which causes damage to, or destruction of, any property of the Government shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Taking unauthorised goods on board.

36. Every officer or subordinate officer in command of any ship belonging to or in the service of the Coast Guard who receives on board or permits to be received on board such ship, any goods or merchandise whatsoever other than for the sole use of the ship or persons belonging to the ship, except goods and merchandise on board any ship which may be ship-wrecked or in imminent danger either on the high seas or in some port, creek or harbour for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may, at any time be ordered to take or receive on board by order of the Central Government or his superior officer, shall, on conviction by a Coast Guard Court, be liable to suffer dismissal from the Coast Guard or such less punishment as is in this Act mentioned.

Offences in respect of papers relating to vessel, craft or aircraft taken into custody.

37. (1) All the papers, charter parties, bills of lading, passports and other documents that shall be taken, seized or found on board any vessel, craft or aircraft taken into custody by the Coast Guard shall be duly preserved and the Commanding Officer or skipper shall send the same to his immediate superior.

(2) Every Commanding Officer or skipper who fails to send the documents as required under sub-section (1) shall, on conviction by a Coast Guard Court, be liable to suffer dismissal from the Coast Guard or such less punishment as is in this Act mentioned.

Offences in respect of vessel, craft or aircraft taken into custody.

38. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) takes out without proper authority from any vessel, craft or aircraft taken into custody, any money or goods; or

(b) pillages, beats or ill-treats persons on board the said vessel, craft or aircraft; or

(c) breaks bulk on board any such vessel, craft or aircraft with intent dishonestly to misappropriate anything therein or belonging thereto,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Unlawful taking of ransom.

39. Every Commanding Officer or skipper of a ship who,—

(a) unlawfully agrees with any person for the ransoming of any vessel, craft, aircraft, goods or things taken into custody by the Coast Guard; or

(b) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, craft, aircraft, goods or things taken into custody by the Coast Guard,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Offences relating to Coast Guard Courts.

40. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being duly summoned or ordered to attend as a witness before a Coast Guard Court, wilfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by a Coast Guard Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by a Coast Guard Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of a Coast Guard Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Court,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Escape from custody.

41. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Violation of the Act, rules and orders.

42. Any person subject to this Act who neglects to obey, or contravenes any provision of this Act or any rule or any order issued by any lawful authority under this Act, shall, if no other punishment is provided in this Act for such neglect or contravention, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

False answers on enrolment.

43. Any person having become subject to this Act who is discovered to have made at the time of enrolment, a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Offences against good order and discipline.

44. Any person subject to this Act who is guilty of any act or omission or disorder or neglect, which, though not specified in this Act, is prejudicial to good order and discipline of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Attempt.

45. Any person subject to this Act who attempts to commit any of the offences specified in sections 15 to 44 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by a Coast Guard Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have been committed.

46. Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 44 (both inclusive), shall on conviction by a Coast Guard Court, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offence punishable with death and not committed.

47. Any person subject to this Act, who abets the commission of an offence punishable with death under section 17 shall, on conviction by a Coast Guard Court, if that offence be not committed in consequence of that abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Abetment of offences punishable with imprisonment and not committed.

48. Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 44 (both inclusive) and punishable with imprisonment shall, on conviction by a Coast Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Civil offences.

49. Subject to the provisions of section 50, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Coast Guard Court, and, on conviction, be punishable as follows, that is to say,—

(a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment, assigned for the offence, by the aforesaid law or such less punishment as is in this Act mentioned; and

(b) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

Civil offences not triable by a Coast Guard Court.

50. A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence against this Act and shall not be tried by a Coast Guard Court, unless he commits any of the said offences,—

(a) at any place outside India; or

(b) at any place specified by the Central Government by notification in this behalf.

Period of limitation for trial of offences under the Act.

51. (1) No person unless he is an offender who has avoided apprehension or escaped arrest or committed the offence of desertion or of giving false entry on enrolment or the offence of mutiny shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial commences within three years from the commission of such offence.

(2) No trial for an offence of desertion or of giving false entry on enrolment shall be commenced if the person in question, not being an officer, has subsequent to the commission of the offence served continuously in an exemplary manner for not less than three years in the Coast Guard.

Trial, etc., of a person who ceases to be subject to the Act.

52. (1) Where an offence under this Act had been committed by any person while subject to this Act, and such person has since the commission of the offence ceased to be subject to this Act, he may be taken into and kept in the Coast Guard custody, and tried and punished for such offence as if he had continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he has ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of mutiny or desertion.

CHAPTER V

PUNISHMENTS

Punishments awardable by Coast Guard Courts.

53. (1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Coast Guard Courts according to the scale following, that is to say,—

(a) death;

(b) imprisonment which may be for the term of life or any other lesser term;

(c) dismissal from the Coast Guard;

(d) detention in Coast Guard custody for a period not exceeding two years;

(e) reduction to the ranks or to a lower rank in the case of sailors;

(f) forfeiture of seniority of rank, forfeiture of all or any part of the service for the purpose of promotion;

(g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(h) fine, in respect of civil offences;

(i) mulcts of pay and allowances;

(j) severe reprimand or reprimand except in the case of persons below the rank of an *Uttam Navik* or *Uttam Yantrik*.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative punishments awardable by Coast Guard Courts.

54. Subject to the provisions of this Act, a Coast Guard Court may, on convicting a person subject to this Act of any of the offences specified in sections 15 to 48 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable, or in lieu thereof, any one of the punishments lower in the scale set out in section 53 regard being had to the nature and degree of the offence.

Combination of punishments.

55. Subject to the provisions of section 58, a sentence of a Coast Guard Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (1) of section 53 and any one or more of the punishments specified in clauses (e) to (j) (both inclusive), of that sub-section.

Punishments otherwise than by Coast Guard Courts.

56. Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Coast Guard Court in the manner stated in section 57.

Minor punishments.

57. Subject to the provisions of section 58, a Commanding Officer or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(a) imprisonment for a period not exceeding three months;

(b) dismissal from the Coast Guard;

(c) detention in Coast Guard custody for a period not exceeding three months;

(d) reduction to the ranks or to a lower rank in the case of sailors;

(e) fine, in respect of civil offences;

(f) mulcts of pay and allowances;

(g) deprivation of good conduct badges;

(h) reprimand;

(i) extra work and drill for a period not exceeding fourteen days in the case of persons below the rank of an *Uttam Navik* or *Uttam Yantrik*;

(*j*) stoppage of leave for a period not exceeding sixty days;

(*k*) admonition:

Provided that no punishment specified in clauses (*a*) to (*d*) (both inclusive) shall be inflicted,—

(*a*) in the case of a subordinate officer, unless it is approved by an officer not below the rank of an Inspector-General; and

(*b*) in the case of others, unless it is approved by an officer not below the rank of a Deputy Inspector-General.

Provisions as to award of punishments.

58. (*1*) The punishments that may be inflicted under this Act shall be awarded in accordance with the provisions of this section.

(*2*) A sentence of imprisonment under this Act shall in all cases be accompanied by a sentence of dismissal.

(*3*) A sentence of imprisonment may be rigorous or simple or partly rigorous and partly simple.

(*4*) No officer shall be subject to detention for any offence under this Act.

(*5*) No subordinate officer shall be sentenced to detention except for desertion.

(*6*) A sentence of detention shall not be accompanied by a sentence of dismissal from the Coast Guard.

(*7*) A sentence of detention for a period exceeding fourteen days shall in all cases be accompanied by stoppage of pay and allowances during the period of detention.

CHAPTER VI

ARREST AND PROCEEDINGS BEFORE TRIAL

Custody of offenders.

59. (*1*) Any person subject to this Act who is charged with an offence may be taken into Coast Guard custody, under the order of any superior officer.

(*2*) Notwithstanding anything contained in sub-section (*1*), an officer may order into Coast Guard custody any other officer engaged in a quarrel, affray or disorder, though such other officer may be of a higher rank.

Duty of Commanding Officer in regard to detention.

60. (*1*) It shall be the duty of every Commanding Officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(*2*) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the Commanding Officer to the Deputy Inspector-General under whom he is serving or such other officer to whom an application may be made to convene a Coast Guard Court for the trial of the person charged.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Coast Guard custody, pending the trial by any competent authority for any offence committed by him.

Arrest by civil authorities.

61. Whenever any person subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to Coast Guard custody of such person upon receipt of a written application to that effect signed by his Commanding Officer or an officer authorised by the Commanding Officer in that behalf.

Capture of deserters.

62. (1) Whenever any person subject to this Act deserts, the Commanding Officer of the unit or ship to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he was a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into Coast Guard custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

Coast Guard police officers.

63. (1) The Director-General or any prescribed officer may appoint persons for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1), are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to, the Coast Guard.

(3) Notwithstanding anything contained in section 59, a person appointed under sub-section (1) may, at any time, arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by a Coast Guard Court or by an officer exercising authority under section 57 but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

CHAPTER VII

Coast Guard Courts

Power to convene a Coast Guard Court.

64. (1) A Coast Guard Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General (hereafter in this Act referred to as the convening authority).

(2) A warrant issued under sub-section (1) may contain such restrictions, reservations or conditions as the Director-General may think fit.

Composition of Coast Guard Courts.

65. (*1*) A Coast Guard Court shall consist of not less than five officers each of whom has held the post of Assistant Commandant for not less than three years.

Explanation.—For the purposes of this sub-section "Assistant Commandant" includes any post of a higher rank and any post declared by the Central Government by notification to be an equivalent post as also any post higher in rank than the post so declared.

(*2*) At every Coast Guard Court, the senior member shall be the presiding officer.

(*3*) A Coast Guard Court shall not be duly constituted unless the members thereof are drawn from at least two ships.

(*4*) No Coast Guard Court for the trial of an officer shall be duly constituted unless the presiding officer and at least two members of the court are of the same rank as the accused or of a higher rank.

Dissolution of a Coast Guard Court.

66. (*1*) If a Coast Guard Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the Law Officer or of the accused before the finding, it is impossible to continue the trial, a Coast Guard Court shall be dissolved.

(*3*) The convening authority of a Coast Guard Court may dissolve the same if it considers that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Coast Guard Court.

(*4*) Where a Coast Guard Court is dissolved under this section, the accused may be tried again.

Powers of a Coast Guard Court.

67. Every Coast Guard Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

Prohibition of second trial.

68. (*1*) When any person subject to this Act has been acquitted or convicted of an offence by a Coast Guard Court or by a criminal court or has been dealt with under section 57, he shall not be liable to be tried again for the same offence by a Coast Guard Court or dealt with under the said section.

(*2*) When any person, subject to this Act, has been acquitted or convicted of an offence by a Coast Guard Court or has been dealt with under section 57, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

Application of Act during term of sentence.

69. (*1*) When a person subject to this Act is sentenced by a Coast Guard Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Coast Guard, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Coast Guard Court to death, this Act shall apply to him till the sentence is carried out.

Place of trial.

70. A Coast Guard Court may be held on shore or afloat.

Choice between criminal court and Coast Guard Court.

71. When a criminal court and a Coast Guard Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General or the Inspector-General or the Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Coast Guard Court, to direct that the accused person shall be detained in Coast Guard custody.

Power of criminal court to require delivery of an offender.

72. (1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 71 at his option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case, the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER VIII

PROCEDURE OF COAST GUARD COURTS

Law Officer.

73. Every Coast Guard Court shall be attended by a Law Officer, or if no such officer is available, an officer approved by the Chief Law Officer or a Law Officer.

Challenges.

74. (1) At all trials by a Coast Guard Court, as soon as the court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the members entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) Where no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

Oaths of member, Law Officer and witness.

75. (*1*) An oath or affirmation in the prescribed manner shall be administered to every member of a Coast Guard Court and to the Law Officer or, as the case may be, the officer approved under section 73, before the commencement of the trial.

(*2*) [Every person] ~~Every officer~~ giving evidence before a Coast Guard Court shall be examined after being duly sworn or affirmed in the prescribed form.

(*3*) The provisions of sub-section (*2*) shall not apply where the witness is a child under twelve years of age and the Coast Guard Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

Voting by members.

76. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), every decision of a Coast Guard Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(*2*) No sentence of death shall be passed by a Coast Guard Court without the concurrence of at least two-thirds of the members of the court.

(*3*) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

General rule as to evidence.

77. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a Coast Guard Court. 1 of 1872.

Judicial notice.

78. A Coast Guard Court may take judicial notice of any matter within the general knowledge of the members as officers of the Coast Guard.

Summoning of witnesses.

79. (*1*) The convening authority, the presiding officer of a Coast Guard Court, the Law Officer or, as the case may be, the officer approved under section 73 or the Commanding Officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(*2*) In the case of a witness who is subject to this Act, the summons shall be sent to his Commanding Officer and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the court of such a Magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

Documents exempted from production.

80. (*1*) Nothing in section 79 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872, or to apply to any letter, post card, telegram or other document in the custody of the postal or telegraph authorities. 1 of 1872.

½ Subs by Act 19 of 1988, S. 3 & Sch. II

(2) If any document in such custody is, in the opinion of any Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court, wanted for the purpose of any Coast Guard Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the orders of any such Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court.

Commissions for examination of witnesses.

81. (1) Whenever, in the course of a trial by a Coast Guard Court, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Chief Law Officer in order that a commission to take the evidence of such witness may be issued.

(2) The Chief Law Officer may then, if he thinks necessary, issue a commission to any Metropolitan Magistrate or Judicial Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate to whom the commission is issued, or, if he is the Chief Metropolitan Magistrate or Chief Judicial Magistrate, he or such Metropolitan Magistrate or Judicial Magistrate of the first class as he appoints in this behalf shall proceed to the place where the witness is, or shall summon the witness before him and shall take down his evidence in the same manner, and may, for this purpose, exercise the same powers as in the trials of warrant-cases under the Code of Criminal Procedure, 1973. 2 of 1974.

(4) When the witness resides in any place outside India, the commission may be issued in the form and manner specified in sub-section (3) of section 285 of the Code of Criminal Procedure, 1973. 2 of 1974.

Examination of a witness on commission.

82. (1) The prosecutor and the accused person in any case in which a commission is issued under section 81 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate by counsel, or except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 81 has been duly executed, it shall be returned together with the deposition of the witness examined thereunder to the Chief Law Officer.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Chief Law Officer shall forward the same to the Coast Guard Court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 81, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Alternative findings.

83. If an accused is charged before a Coast Guard Court with one offence and it appears in evidence that he committed a different offence, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

Presumption as to signatures.

84. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

Enrolment paper.

85. (1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

Presumption as to certain documents.

86. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any unit or ship of the Coast Guard, or respecting the circumstances of any person not having served in, or belonged to, any unit or ship, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) A Coast Guard List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by them and of the unit or ship of the Coast Guard to which they belong.

(3) Where a record is made in the books of a ship in pursuance of this Act or any rule or otherwise in the discharge of official duties, and purports to be signed by the Commanding Officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in the books of a ship purporting to be certified to be a true copy by the officer having custody of such books shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act or any unit or ship of the Coast Guard, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the Commanding Officer of the unit or ship to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of improperly leaving a ship or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of a Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report, may be used as evidence in any proceeding under this Act.

Explanation.—In this section, the term "books of a ship" shall include any official book, document or list purporting to contain the name or names of persons appointed to the ship.

Evidence of previous convictions and general character.

87. (1) When any person subject to this Act has been convicted by a Coast Guard Court of any offence, such court may inquire into, and receive, and record evidence of any previous convictions of such person, either by a Coast Guard Court or by a criminal court, or any previous award of punishment under section 57, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Coast Guard Courts or other official records; and it shall not be necessary to give notice before trial to the person tried, that evidence as to his previous convictions or character will be received.

Lunacy of accused.

88. (1) Whenever, in the course of a trial by a Coast Guard Court, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The presiding officer of the Coast Guard Court shall forthwith report the case to the convening authority.

(3) The convening authority to whom the finding of a Coast Guard Court is reported under sub-section (2) shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(4) On receipt of a report under sub-section (3), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

Subsequent fitness of lunatic accused for trial.

89. Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 88, any officer prescribed in this behalf, may,—

(a) if such person is in custody under sub-section (3) of section 88, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in jail under sub-section (4) of section 88, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence,

take steps to have such person tried by the same or another Coast Guard Court for the offence with which he was originally charged, or, if the offence is a civil offence, by a criminal court.

Transmission to Central Government of orders under section 89.

90. A copy of every order made by an officer under section 89 for the trial of the accused shall forthwith be sent to the Central Government.

Release of lunatic accused.

91. Where any person is in custody under sub-section (3) of section 88 or under detention under sub-section (4) of that section,—

(a) if such person is in custody under the said sub-section (3), on the report of the medical officer, or

(b) if such person is detained under the said sub-section (4), on a certificate from any of the authorities mentioned in clause (b) of section 89 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such asylum.

Delivery of lunatic accused to relatives.

92. Where any relative or friend of any person who is in custody under sub-section (3) of section 88 or under detention under sub-section (4) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

93. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Coast Guard Court during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. Order for custody and disposal of property pending trial.

94. (*1*) After the conclusion of a trial before a Coast Guard Court, an officer not below the rank of a Deputy Inspector-General within whose command the trial was held, may make such order as he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence. Order for disposal of property regarding which offence is committed.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried out into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973. 2 of 1974.

(*3*) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

95. Any trial by a Coast Guard Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Coast Guard Court shall be deemed to be a court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974. Powers of Coast Guard Court in relation to proceedings under this Act.

CHAPTER IX

EXECUTION AND SUSPENSION OF SENTENCES

96. In awarding a sentence of death, a Coast Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead or shall suffer death by being shot to death. Form of sentence of death.

97. A person sentenced to death may be detained in Coast Guard custody or may be removed to a civil prison to be kept in custody until further orders are received from the Central Government, the Director-General or the convening authority of the Coast Guard Court by which he was sentenced to death or other prescribed officer, and the order of the Central Government, the Director-General or the convening authority or such officer shall be sufficient warrant for detaining the person in custody. Interim custody until execution of sentence of death.

Execution of sentence of death.

98. (1) When a sentence of death is to be executed, the Director-General or the convening authority or the prescribed officer shall give directions as to the time, place and manner in which such sentence is to be carried out and the order of such officer or authority in the prescribed form shall be sufficient warrant for the execution of such sentence.

(2) There shall be attached to the prescribed form, an order of the Central Government certifying the confirmation of the sentence by the Central Government.

Commencement of sentence of imprisonment or detention.

99. Whenever any person is sentenced under this Act to imprisonment or detention, the term of the sentence shall be reckoned to commence on the date on which the sentence was awarded.

Execution of sentence of imprisonment.

100. (1) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence of death is commuted to imprisonment, the presiding officer of the Coast Guard Court which passed the sentence or such other officer as may be prescribed shall direct that the sentence shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1), the Commanding Officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

Temporary custody of offender.

101. Where a sentence of imprisonment is directed to be undergone in a civil prison, the offender may be kept in Coast Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

Conveyance of prisoner from place to place.

102. A person under sentence of imprisonment may during his conveyance from place to place, or when on board a ship, aircraft or otherwise, be subject to such restraint as is necessary for his safe conduct and removal.

Communication of certain orders to prison officers.

103. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such person as may be prescribed, to the officer in charge of the prison in which such person is confined.

Execution of Sentence of fine.

104. When a sentence of fine is imposed by a Coast Guard Court under section 53, a copy of such sentence signed and certified by the presiding officer of the court may be sent to any Magistrate in India and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such Magistrate. 2 of 1974.

Informality or error in the order or warrant.

105. Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in, or as respects

the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or is confined in any such place, and any such order, warrant or document may be amended accordingly.

106. Whenever a sentence is passed by a Coast Guard Court on a person already under sentence either of imprisonment or detention passed on him under this Act for a former offence, the court may award a sentence of imprisonment or detention for the offence for which he is under trial to commence at the expiration of the sentence of imprisonment or detention to which he has been previously sentenced: Imprisonment or detention of offender already under sentence.

Provided that so much of any term of detention imposed on a person by a sentence in pursuance of this section as will prolong the total term of detention beyond two years shall be deemed to be remitted.

107. (*1*) Where a person subject to this Act is sentenced to imprisonment or detention, the Central Government, the Director-General, the Commanding Officer imposing the sentence or any prescribed officer may suspend the sentence whether or not the offender has already been committed to prison or to Coast Guard custody. Suspension of sentence of imprisonment or detention.

(*2*) The authority or officer specified in sub-section (*1*) may, in the case of an offender so sentenced, direct that until the orders of such authority or officer have been obtained, the offender shall not be committed to prison or to Coast Guard custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been reduced or commuted.

108. Where a sentence is suspended under section 107, the offender shall forthwith be released from custody. Release on suspension.

109. Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence. Computation of period of suspension.

110. The authority or officer specified in section 107 may, at any time while a sentence is suspended, order— Order after suspension.

(*a*) that the offender be committed to undergo the unexpired portion of the sentence; or

(*b*) that the sentence be remitted.

111. (*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 107, or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 107. Reconsideration of case after suspension.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 107.

Fresh sentence after suspension.

112. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(a) if the further sentence is also suspended under this Act, the sentence shall run concurrently;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Coast Guard custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 110 or section 111 continue to be suspended.

Scope of power of suspension.

113. The powers conferred by sections 107 and 110 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

Effect of suspension and remission on dismissal.

114. (1) Where in addition to any other sentence, the punishment of dismissal has been awarded under this Act and such other sentence is suspended under section 107, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 107.

(2) If such other sentence is remitted under section 110, the punishment of dismissal shall also be remitted.

CHAPTER X

CHIEF LAW OFFICER AND LAW OFFICERS

Appointment of Chief Law Officer and Law Officers.

115. (1) There shall be appointed by the Central Government, a Chief Law Officer and as many Law Officers as the Central Government may deem necessary.

(2) A person shall not be qualified for appointment as Chief Law Officer unless he—

(a) is a citizen of India; and

(b) has for at least ten years held a judicial office in the territory of India; or

(c) has for at least ten years been an advocate of a High Court or two or more such Courts in succession:

Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (b) or clause (c) in respect of any person.

(3) A person shall not be qualified for appointment as Law Officer unless he—

(a) is a citizen of India, and

(b) is qualified for enrolment as an advocate of a High Court.

Explanation.—For the purposes of this section,—

(a) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held a judicial office after he became an advocate;

(b) the expression "judicial office" shall be deemed to include the post of Law Officer.

Functions of Chief Law Officer.

116. (1) It shall be the duty of the Chief Law Officer to perform such duties of a legal and judicial character pertaining to the Coast Guard as may, from time to time, be referred or assigned to him by the Central Government or the Director-General, and to discharge the functions conferred on him by or under this Act.

(2) The functions of the Chief Law Officer shall, in his absence or otherwise, be performed by such Law Officer as may be designated in this behalf by the Director-General.

CHAPTER XI

JUDICIAL REVIEW OF PROCEEDINGS OF COAST GUARD COURTS

Judicial review by the Chief Law Officer.

117. (1) All proceedings of trials by Coast Guard Courts shall be reviewed by the Chief Law Officer either on his own motion or on application made to him within the prescribed time by any person aggrieved by any sentence or finding, and the Chief Law Officer shall transmit the report of such review together with such recommendations as may appear to him just and proper to the Director-General for his consideration and for such action as the Director-General may think fit.

(2) Where any person aggrieved has made an application under sub-section (1), the Chief Law Officer may, if the circumstances of the case so require, give him an opportunity of being heard either in person or through a legal practitioner or an officer of the Coast Guard.

Consideration by the Director-General.

118. (1) On receipt of the report and recommendations, if any, under section 117, the Director-General shall in all cases of sentences of death, and in all cases where the Coast Guard Court is convened by the Central Government, and may, in other cases, transmit the proceedings and the report to the Central Government together with such recommendations as he may deem fit to make.

(2) Nothing in section 117 or this section shall authorise the Chief Law Officer or the Director-General to make any recommendation for setting aside, or the Central Government to set aside, an order of acquittal passed under this Act.

CHAPTER XII

MODIFICATION OF FINDINGS AND SENTENCES, PARDONS, COMMUTATION AND REMISSION OF SENTENCES

Petitions to Central Government or Director-General against findings and sentences.

119. Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Coast Guard Court may present a petition to the Central Government or to the Director-General, and the Central Government or the Director-General, as the case may be, may pass such orders thereon as it or he may think fit.

Powers of Central Government and Director-General in respect of findings and sentences.

120. (*1*) Where any person is tried under the provisions of this Act, the Central Government or the Director-General may, in the case of a conviction,—

(*a*) set aside the finding and sentence and acquit or discharge the accused or order him to be re-tried; or

(*b*) alter the finding without modifying the sentence if such sentence may be legally passed on the altered finding; or

(*c*) with or without altering the finding, reduce the sentence or commute the punishment awarded for any punishment inferior in scale; or

(*d*) either with or without conditions, pardon the person or remit the whole or any part of the punishment awarded; or

(*e*) with or without conditions release the person on parole:

Provided that a sentence of imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of imprisonment awarded:

Provided further that nothing in this sub-section shall authorise the Central Government or the Director-General to enhance the sentence.

(*2*) Any sentence modified under the provisions of sub-section (*1*) shall be carried into execution as if it had been originally passed.

(*3*) If any condition on which a person has been pardoned or has been released on parole or a punishment has been remitted is in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon or release or remission and thereupon the sentence awarded shall be carried into effect as if such pardon, release or remission had not been granted:

Provided that in the case of a person sentenced to imprisonment or detention, such person shall undergo only the unexpired portion of the sentence.

CHAPTER XIII

MISCELLANEOUS

Powers and duties conferable and imposable on members of the Coast Guard.

121. (*1*) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations, and within the local limits of such inland area adjoining the coast of India, as may be specified in the order, any member of the Coast Guard may,—

34 of 1920.
7 of 1922.
16 of 1939.
31 of 1946.
44 of 1958.
52 of 1962.
15 of 1967.
46 of 1973.
80 of 1976.

(*i*) for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920, the Emigration Act, 1922, the Registration of Foreigners Act, 1939, the Foreigners Act, 1946, the Merchant Shipping Act, 1958, the Customs Act, 1962, the Passports Act, 1967, the Foreign Exchange Regulation Act, 1973, or the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, or of any cognizable offence punishable under any other Central Act; or

(*ii*) for the purpose of apprehending any person who has committed any offence referred to in clause (*i*),

exercise or discharge such of the powers or duties under that Act or any other Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that or such other Act empowered to exercise or discharge for the said purposes.

(*2*) The Central Government may, by general or special order published in the Official Gazette, direct, with the concurrence of the State Government concerned, that any of the powers or duties which may be exercised or discharged under a State Act by a police officer may, subject to such conditions and limitations, and within the local limits of such inland area adjoining the coast of India, as may be specified in the order, be exercised or discharged by a member of the Coast Guard who, in the opinion of the Central Government, holds a corresponding or higher rank.

(*3*) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations, and within the local limits of such area in any maritime zone of India, as may be specified in the order, any member of the Coast Guard may,—

(*i*) for the purpose of prevention of any offence punishable under any enactment which extends for the time being to such area; or

(*ii*) for the purpose of apprehending any person who has committed any offence referred to in clause (*i*),

exercise or discharge such of the powers or duties under that enactment, as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that enactment empowered to exercise or discharge for the said purposes.

(4) Every order 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 immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order 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 order.

Protection for acts of members of the Coast Guard.

122. (1) In any suit or proceeding against any member of the Coast Guard 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.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved, the member of the Coast Guard 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.

(3) 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 any member of the Coast Guard for anything done or intended to be done under the powers conferred by, or in pursuance of any provision of this Act or the rules, 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 to the defendant or his superior officer at least one month before the commencement of such proceeding.

Power to make rules.

123. (1) The Central Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

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

(a) the constitution, governance, command and discipline of the Coast Guard;

(b) the enrolment of persons to the Coast Guard and the recruitment of other members of the Coast Guard;

(c) the conditions of service (including service privileges and deductions from pay and allowances) of members of the Coast Guard;

(d) the rank, precedence, powers of command and authority of the officers, subordinate officers and other enrolled persons;

(e) the removal, retirement, release or discharge from the service of officers, subordinate officers and other enrolled persons;

(f) the purposes and other matters required to be prescribed under section 13;

(g) the additional matters in respect of which the Coast Guard may undertake measures in the performance of its functions;

(*h*) the convening, constitution, adjournment, dissolution and sittings of Coast Guard Courts, the procedure to be observed in trials by such courts, the persons by whom an accused may be defended in such trials and the appearance of such persons thereat;

(*i*) the forms of orders to be made under the provisions of this Act relating to Coast Guard Courts and the awards and infliction of death, imprisonment and detention;

(*j*) the carrying into effect of sentences of Coast Guard Courts;

(*k*) any matter necessary for the purpose of carrying this Act into execution, as far as it relates to the investigation, arrest, custody, trial and punishment of offences triable or punishable under this Act;

(*l*) the procedure relating to the exercise of powers under section 120;

(*m*) the ceremonials to be observed and marks of respect to be paid in the Coast Guard;

(*n*) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of this Act.

(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 immediately following the session 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.

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE PASSPORTS (AMENDMENT) ACT, 1978

No. 31 OF 1978

[18th *August*, 1978.]

An Act to amend the Passports Act, 1967.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Passports (Amendment) Act, 1978.

Short title.

2. In section 5 of the Passports Act, 1967 (hereinafter referred to as the principal Act),— 15 of 1967

Amendment of section 5.

(*a*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

'(*1*) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by a fee of rupees fifty.

Explanation.—In this section, "named foreign country" means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.

(*1A*) An application for the issue of—

(*i*) a passport under this Act for visiting a named foreign country; or

(*ii*) a travel document under this Act, for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section,

may be made to the passport authority and shall be accompanied by such fee (if any) not exceeding rupees fifty, as may be prescribed.

(*1B*) Every application under this section shall be in such form and contain such particulars as may be prescribed.';

(*b*) in sub-section (*2*), in the opening paragraph, after the words "an application", the words "under this section" shall be inserted.

REPEALED

3. In section 13 of the principal Act, in sub-section (2), for the words and figures "section 61 of the Code of Criminal Procedure, 1898", the words and figures "section 57 of the Code of Criminal Procedure, 1973" shall be substituted. Amendment of section 13.

5 of 1898.
2 of 1974.

4. In section 14 of the principal Act, in sub-section (2), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted. Amendment of section 14.

5 of 1898.
2 of 1974.

5. In section 23 of the principal Act,— Amendment of section 23.

(a) the words and figures "the Foreign Exchange Regulation Act, 1947" shall be omitted;

7 of 1947.

(b) after the words, brackets and figures "the Foreigners Law (Application and Amendment) Act, 1962", the words and figures "the Foreign Exchange Regulation Act, 1973" shall be inserted.

42 of 1962.
46 of 1973.

6. In section 24 of the principal Act,— Amendment of section 24.

(a) in sub-section (2),—

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

"(ee) specifying the foreign country for the purposes of the *Explanation* to sub-section (1) of section 5;";

(ii) in clause (f), for the words "issue or renewal of a passport", the words, brackets, figures and letter "issue or renewal of a passport for visiting a foreign country referred to in sub-section (1A) of section 5" shall be substituted;

(b) in sub-section (3), for the words "in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

7. Where any application for the issue or renewal of a passport is made to the passport authority on or after the date of introduction of the Passports (Amendment) Bill, 1978 in Parliament but before the date on which the Bill as passed by the Houses of Parliament receives the assent of the President, the applicant shall be required as from the commencement of this Act to pay in respect of such application the difference between the fee payable under section 5 of the principal Act, as amended by this Act and the amount already paid by him towards fee under the said section as it stood immediately before such amendment. Transitional provision.

Rep. by Act 19 of 88, s. 20 & Sch. I

THE INDIAN EXPLOSIVES (AMENDMENT) ACT, 1978

No. 32 of 1978

[18*th August*, 1978.]

An Act further to amend the Indian Explosives Act, 1884.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Explosives (Amendment) Act, 1978.

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

Amendment of long title and preamble.

2. In the long title of, and the preamble to, the Indian Explosives Act, 1884 (hereinafter referred to as the principal Act), for the words "transport and importation", the words "transport, import and export" shall be substituted. 4 of 1884

Amendment of section 1.

3. In section 1 of the principal Act, in sub-section (*1*), the word "Indian" shall be omitted.

Substitution of new section for section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Definitions.

"4. In this Act, unless the context otherwise requires,—

(*a*) "aircraft" means any machine which can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface, and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;

(*b*) "carriage" includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled;

(*c*) "District Magistrate", in relation to any area for which a Commissioner of Police has been appointed, means the Commissioner of Police thereof and includes—

(*a*) any such Deputy Commissioner of Police, exercising jurisdiction over the whole or any part of such area, as

REPEALED

may be specified by the State Government in this behalf in relation to such area or part; and

(*b*) an Additional District Magistrate;

(*d*) "explosive" means gunpowder, nitroglycerine, nitroglycol, gun-cotton, di-nitro-toluene, tri-nitro-toluene, picric acid, di-nitro-phenol, tri-nitro-resorcinol (styphnic acid), cyclo-trimethylene-trinitramine, penta-erythritol-tetranitrate, tetryl, nitroguanidine, lead azide, lead styphynate, fulminate of mercury or any other metal, diazo-di-nitro-phenol, coloured fires or any other substance whether a single chemical compound or a mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and includes fog-signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as defined in this clause;

(*e*) "export" means taking out of India to a place outside India by land, sea or air;

(*f*) "import" means to bring into India from a place outside India by land, sea or air;

(*g*) "master",—

(*a*) in relation to any vessel or aircraft means any person, other than a pilot, harbour master, assistant harbour master or berthing master, having for the time being the charge or control of such vessel or aircraft, as the case may be; and

(*b*) in relation to any boat belonging to a ship, means the master of that ship;

(*h*) "manufacture" in relation to an explosive includes the process of—

(*1*) dividing the explosive into its component parts or otherwise breaking up or unmaking the explosive, or making fit for use any damaged explosive; and

(*2*) re-making, altering or repairing the explosive;

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

(*j*) "vessel" includes any ship, boat, sailing vessel, or other description of vessel used in navigation whether propelled by oars or otherwise and anything made for the conveyance, mainly by water, of human beings or of goods and a caisson.".

5. In section 5 of the principal Act,— Amendment of section 5.

(*a*) in sub-section (*1*), for the words "transport and importation", the words "transport, import and export" shall be substituted;

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(*b*) in sub-section (2),—

(*i*) in clause (*e*), the word "and" shall be omitted;

(*ii*) after clause (*e*), the following clauses shall be inserted, namely:—

"(*ee*) the authority to which appeals may be preferred under section 6F, the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the circumstances under which such fees may be refunded;

(*eea*) the total quantity of explosives that a licensee can purchase in a given period of time;

(*eeb*) the fees to be charged by the Chief Controller of Explosives or any officer authorised by him in this behalf, for services rendered in connection with the manufacture, transport, import or export of explosives;";

(*iii*) in clause (*f*), after the words "any explosives", the words "or any person or class of persons" shall be inserted;

(*c*) sub-section (3) shall be omitted.

Insertion of new section 5A.

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

Persons already in business in respect of certain explosives to carry on such business without licence for a certain period.

"**5A.** Notwithstanding anything in section 5 or in the rules made thereunder where, immediately before the commencement of the Indian Explosives (Amendment) Act, 1978, any person was carrying on the business of manufacture, sale, transport, import or export of any explosive [for which no licence was required under this Act before its amendment by the Indian Explosives (Amendment) Act, 1978], then, such person shall be entitled to continue to carry on such business without licence in respect of such explosive—

(*a*) for a period of three months from the date of such commencement; or

(*b*) if before the expiry of the said period of three months, such person has made an application for grant of licence under this Act for such business in such explosive, until the final disposal of his application,

whichever is later.".

Amendment of section 6.

7. In section 6 of the principal Act,—

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

"(2) The Customs Act, 1962 shall have effect in relation to any explosive with regard to the importation of which a notification has been issued under this section and the vessel, carriage or aircraft containing such explosive as that Act has in relation to any article the importation of which is prohibited or regulated

52 of 1962.

REPEALED

thereunder and the vessel, carriage or aircraft containing such article.";

(*b*) sub-section (*3*) shall be omitted.

8. After section 6 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 6A, 6B, 6C, 6D, 6E and 6F.

"6A. Notwithstanding anything in the foregoing provisions of this Act,— Prohibition of manufacture, possession, sale or transport of explosives by young persons and certain other persons.

(*a*) no person,—

(*i*) who has not completed the age of eighteen years, or

(*ii*) who has been sentenced on conviction of any offence involving violence or moral turpitude for a term of not less than six months, at any time during a period of five years after the expiration of the sentence, or

(*iii*) who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1973, a bond for keeping the peace or for good behaviour, at any time during the term of the bond, or 2 of 1974.

(*iv*) whose licence under this Act has been cancelled, whether before or after the commencement of the Indian Explosives (Amendment) Act, 1978, for contravention of the provisions of this Act or of the rules made thereunder, at any time during a period of five years from the date of cancellation of such licence,

shall,—

(*1*) manufacture, sell, transport, import or export any explosive, or

(*2*) possess any such explosive as the Central Government may, having regard to the nature thereof, by notification in the Official Gazette, specify;

(*b*) no person shall sell, deliver or despatch any explosive to a person whom he knows or has reason to believe at the time of such sale, delivery or despatch,—

(*i*) to be prohibited under clause (*a*) to manufacture, sell, transport, import, export or possess such explosive, or

(*ii*) to be of unsound mind.

6B. (*1*) Where a person makes an application for licence under section 5, the authority prescribed in the rules made under that section for grant of licences (hereinafter referred to in this Act as the licensing authority), after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing either grant the licence or refuse to grant the same. Grant of licences.

(2) The licensing authority shall grant a licence—

(*a*) where it is required for the purpose of manufacture of explosives if the licensing authority is satisfied that the person by whom licence is required—

(*i*) possesses technical know-how and experience in the manufacture of explosives; or

(*ii*) has in his employment or undertakes to employ a person or persons possessing such technical know-how and experience; or

(*b*) where it is required for any other purpose, if the licensing authority is satisfied that the person by whom licence is required has a good reason for obtaining the same.

Refusal of licences.

6C. (*1*) Notwithstanding anything contained in section 6B, the licensing authority shall refuse to grant a licence—

(*a*) where such licence is required in respect of any prohibited explosive; or

(*b*) where such licence is required by a person whom the licensing authority has reason to believe—

(*i*) to be prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export any explosive; or

(*ii*) to be of unsound mind, or

(*iii*) to be for any reason unfit for a licence under this Act; or

(*c*) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of opinion that it will not be in the public interest to furnish such statement.

Licensing authority competent to impose conditions in addition to prescribed conditions.

6D. A licence granted under section 6B may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

Variation, suspension and

6E. (*1*) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the holder of

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licence by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

revocation of licences.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may, by order in writing, suspend a licence for such period as it thinks fit or revoke a licence,—

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export any explosive, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for the licence; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying the conditions of a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke a licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(7) An order of suspension or revocation under sub-section (6) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(8) The Central Government may, by order in the Official Gazette, suspend or revoke, or direct any licensing authority to suspend or revoke, all or any licences granted under this Act throughout India or any part thereof.

(9) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

Appeals.

6F. (1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against an order made by, or under the direction of, the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963, with respect to the computation of periods of limitation thereunder. 36 of 196

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final."

Amendment of section 7.

9. In section 7 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a),—

(1) for the words "any place, carriage or vessel", the words "any place, aircraft, carriage or vessel" shall be substituted;

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(2) for the words "transported or imported", wherever they occur, the words "transported, imported or exported" shall be substituted;

(*ii*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) to seize, detain and remove any explosive or ingredient thereof found therein and, if necessary, also destroy such explosive or ingredient.";

(*b*) in sub-section (*2*), for the words "Code of Criminal Procedure", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

2 of 1974.

Amendment of section 8.

10. In section 8 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "any carriage or vessel", the words "any aircraft, carriage or vessel" shall be substituted;

(*ii*) for the words "the master of the vessel", the words "the master of the aircraft or vessel" shall be substituted;

(*iii*) for the words "Chief Inspector of Explosives in India", the words "Chief Controller of Explosives" shall be substituted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 9.

11. In section 9 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "any place, carriage or vessel", the words "any place, aircraft, carriage or vessel" shall be substituted;

(*ii*) for the words "the Indian Forces", the words "Armed Forces of the Union" shall be substituted;

(*iii*) the brackets and words "(or in a Presidency-town, the Commissioner of Police)" shall be omitted;

(*b*) in sub-section (*2*), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

5 of 1898.
2 of 1974.

(*c*) in sub-section (*4*), in clauses (*b*), (*c*) and (*d*), for the words "Chief Inspector of Explosives in India", the words "Chief Controller of Explosives" shall be substituted.

Amendment of section 9A.

12. In section 9A of the principal Act, in sub-section (*1*), for the words "Chief Inspector of Explosives in India", the words "Chief Controller of Explosives" shall be substituted.

Insertion of new sections 9B and 9C.

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

Punishment for certain offences.

"9B. (1) Whoever, in contravention of rules made under section 5 or of the conditions of a licence granted under the said rules—

(a) manufactures, imports or exports any explosive shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

(b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees or with both; and

(c) in any other case, with fine which may extend to one thousand rupees.

(2) Whoever in contravention of a notification issued under section 6 manufactures, possesses or imports any explosive shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both; and in the case of importation by water, the owner and master of the vessel or in the case of importation by air, the owner and the master of the aircraft, in which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with fine which may extend to five thousand rupees.

(3) Whoever,—

(a) manufactures, sells, transports, imports, exports or possesses any explosive in contravention of the provisions of clause (a) of section 6A; or

(b) sells, delivers or despatches any explosive in contravention of the provisions of clause (b) of that section,

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; or

(c) in contravention of the provisions of section 8 fails to give notice of any accident shall be punishable,—

(i) with fine which may extend to five hundred rupees, or

(ii) if the accident is attended by loss of human life, with imprisonment for a term which may extend to three months or with fine or with both.

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9C. (1) Whenever 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, or 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:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

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

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

Substitution of new section for section 11.

"11. Where the owner or master of any aircraft or vessel is adjudged under this Act to pay a fine for any offence committed with, or in relation to, that aircraft or vessel, the Court may, in addition to any power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of,—

Distress of aircraft or vessel.

(a) the aircraft and its furniture or so much of the furniture, or

(b) the vessel and the tackle, apparel and furniture of such vessel or so much of the tackle, apparel and furniture thereof,

as is necessary for the payment of the fine.".

15. In section 13 of the principal Act,—

Amendment of section 13

(a) for the words "ship or boat", the words "aircraft or vessel" shall be substituted;

(b) for the words "conservator of the port", the words "conservator of the port or officer in charge of the air port" shall be substituted.

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Amendment of section 14.

16. In section 14 of the principal Act,—

(*a*) in clause (*a*) of sub-section (*1*), for the words "Indian Forces", the words "Armed Forces of the Union, and Ordnance factories or other establishments of such Forces" shall be substituted;

(*b*) in sub-section (*2*), for the words "any explosive from all or any of the provisions of this Act", the words "any explosive and any person or class of persons from all or any of the provisions of this Act or the rules made thereunder" shall be substituted.

Amendment of section 15.

17. In section 15 of the principal Act,—

(*a*) for the words and figures "Indian Arms Act, 1878", the words and figures "Arms Act, 1959" shall be substituted; 11 of 1878. 54 of 1959.

(*b*) in the proviso, the word "Indian" shall be omitted.

Insertion of new section 17A.

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

Power to delegate.

"17A. The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under sections 5, 6, 6A, 14 and 17 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by—

(*a*) such officer or authority subordinate to the Central Government, or

(*b*) such State Government or such officer or authority subordinate to the State Government.".

Amendment of section 18.

19. In section 18 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) 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 immediately following the session 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.".

THE METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978

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THE METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978

No. 33 OF 1978

[21st *August*, 1978.]

An Act to provide for the construction of works relating to metro railways in the metropolitan cities and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, commencement and application.

1. (*1*) This Act may be called the Metro Railways (Construction of Works) Act, 1978.

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

(*3*) It applies in the first instance to the metropolitan city of Calcutta; and the Central Government may, by notification in the Official Gazette, declare that this Act shall also apply to such other metropolitan city and with effect from such date as may be specified in that notification and thereupon the provisions of this Act shall apply to that city accordingly.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "Advisory Board" means the Advisory Board constituted under section 4;

(*b*) "arbitrator" means the arbitrator appointed under section 16;

(*c*) "building" means a house, outhouse, stable, latrine, urinal, shed, hut or wall or any other structure or erection, whether of masonry bricks, wood, mud, metal or any other material or any part of a building, but does not include a plant or machinery installed in a building or any part thereof or any portable shelter;

(*d*) "commissioner" means a commissioner of metro railway appointed under section 27;

(*e*) "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 for such area as may be specified in the notification;

(*f*) "development" with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any building or land or planting of any tree on land and includes redevelopment;

(*g*) "land" includes any right or interest in land;

(*h*) "metro alignment", in relation to any metropolitan city, means such alignment of the metro railway as is specified in the Schedule under that city and includes the metro railway;

(*i*) "metro railway" means a metro railway or any portion thereof for the public carriage of passengers, animals or goods and includes,—

(*a*) all land within the boundary marks indicating the limits of the land appurtenant to a metro railway;

(*b*) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, a metro railway;

(*c*) all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with, a metro railway;

(*j*) "metro railway administration", in relation to any metro railway, means the General Manager of that metro railway;

(*k*) "metropolitan city" means the metropolitan city of Bombay, Calcutta, Delhi or Madras;

(*l*) "metropolitan city of Bombay" means the area covered by Greater Bombay as defined in the Bombay Municipal Corporation Act, 1888; Bombay Act III of 1888.

(*m*) "metropolitan city of Calcutta" means the area described under the heading "1. Calcutta Metropolitan District" in the Schedule to the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act, 1965; West Bengal Act XIV of 1965.

(*n*) "metropolitan city of Delhi" means the entire area of the Union territory of Delhi;

(*o*) "metropolitan city of Madras" means the area covered by the City of Madras as defined in the Madras City Municipal Act, 1919; Madras Act IV of 1919.

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

(*q*) "rolling stock" includes locomotives, engines, carriages (whether powered or not), wagons, trollies and vehicles of all kinds moving or intended to move on rails;

(*r*) "to erect", in relation to any building, includes—

(*i*) any material alteration or enlargement of such building,

(ii) conversion, by structural alteration, into a place for human habitation of such building not originally constructed for human habitation,

(iii) conversion into more than one place for human habitation of such building originally constructed as one such place;

(iv) conversion of two or more places of human habitation in such building into a greater number of such places;

(v) such alteration of such building as would alter the drainage or sanitary arrangements therein or would materially affect its security, and

(vi) the addition of any rooms in such building.

(2) All other words and expressions used herein and not defined but defined in the Indian Railways Act, 1890, shall have the meanings, respectively, assigned to them in that Act. 9 of 1890.

CHAPTER II

METRO RAILWAY ADMINISTRATION

General Manager.

3. The Central Government may, for the purposes of this Act, appoint a General Manager for every metro railway.

Constitution of Advisory Board.

4. (1) The Central Government may constitute an Advisory Board for every metro railway for the purpose of assisting or advising that Government on—

(a) the formulation and co-ordination of plans for the development of metro railway and its expansion;

(b) the financing and execution of any project for the construction of the metro railway;

(c) such other matters as may be referred to it for carrying out the purposes of this Act and in particular for the purpose of ensuring that the functions of the metro railway administration are exercised with due regard to the circumstances or conditions prevailing in and requirements of the metropolitan city.

(2) The Advisory Board shall consist of such number of members (being officers of the Government) not exceeding nine as may be appointed to it by the Central Government.

(3) The Central Government shall appoint one of the members of the Advisory Board as its Chairman.

(4) The Central Government shall publish in the Official Gazette the names of all the members of the Advisory Board and the Chairman thereof.

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

(6) The members of the Advisory Board shall hold office for such term as may be prescribed.

Committees.

5. (1) The Advisory Board may constitute as many committees as it deems necessary consisting wholly of members of such Board or wholly of other persons or partly of members of the Board and partly of other persons for such purposes as it may think fit.

(2) Every committee constituted under sub-section (1) shall meet at such times and places and shall observe such procedure in regard to the transaction of its business as may be prescribed.

(3) There shall be paid to the members of the committee who are not members of the Advisory Board, such fees and allowances for attendance at the meetings of the committee and such travelling allowances as may be prescribed.

CHAPTER III

ACQUISITION

Power to acquire land, etc.

6. Where it appears to a metro railway administration that for the construction of any metro railway or any other work connected therewith—

(a) any land, building, street, road or passage, or

(b) any right of user, or any right in the nature of easement, therein,

is required for such construction or work, it shall apply to the Central Government in such form as may be prescribed for acquiring such land, building, street, road or passage or such right of user or easement.

Publication of notification for acquisition.

7. (1) On receipt of an application under section 6, the Central Government, after being satisfied that the requirement mentioned therein is for a public purpose, may, by notification in the Official Gazette, declare its intention to acquire the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein referred to in the application.

(2) Every notification under sub-section (1) shall give a brief description of the land, building, street, road or passage.

(3) The competent authority shall cause the substance of the notification to be published in such places and in such manner as may be prescribed.

Power to enter for survey, etc.

8. On the issue of a notification under sub-section (1) of section 7, it shall be lawful for the metro railway administration or any officer or other employee of the metro railway—

(a) to enter upon and survey and take level of the land, building, street, road or passage specified in the notification;

(b) to dig or bore into the sub-soil;

(c) to set out the intended work;

(d) to mark such levels, boundaries or lines by placing marks and cutting trenches;

(*e*) to do all other acts necessary to ascertain whether the metro railway can be laid upon or under the land, building, street, road or passage, as the case may be:

Provided that while exercising any power under this section the metro railway administration or such officer or other employee shall cause as little damage or injury as possible to such land, building, street, road or passage, as the case may be.

9. (*1*) Any person interested in the land, building, street, road or passage may, within twenty-one days from the ~~date of publication of the notification under sub-section (1) of section 7~~ object to the construction of the metro railway or any other work connected therewith upon or under the land, building, street, road or passage, as the case may be. Hearing of objection.

(*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 an agent or] by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section "legal practitioner" has the same meaning as in clause (*i*) of sub-section (*1*) of section 2 of the Advocates Act, 1961. **25 of 1961.**

(*3*) Any order made by the competent authority under sub-section (*2*) shall be final.

10. (*1*) Where no objection under sub-section (*1*) of section 9 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (*2*) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein for laying the metro railway should be acquired. Declaration of acquisition.

(*2*) On the publication of the declaration under sub-section (*1*), the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein shall vest absolutely in the Central Government free from all encumbrances.

(*3*) Where in respect of any land, building, street, road or passage, a notification has been published under sub-section (*1*) of section 7 either for its acquisition or for the acquisition of the right of user, or any right in the nature of easement, therein, but no declaration under this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect.

(*4*) A declaration made by the Central Government under sub-section (*1*) shall not be called in question in any court or by any other authority.

11. (*1*) ~~Subject to the provisions of section 14, where any land, building, street, road or passage has vested under sub-section (2) of section~~ 10, the competent authority may by notice in writing direct the owner Power to take possession of acquired land, etc

1 Subs. and ins. by Act 41 of 1982, s. 4 (w.e.f. 15.5.1983)
2 Subs. by s. 5, ibid (w.e.f. 15.5.1983)
3 Added by Act 42 of 1987, s. 2

as well as any other person who may be in possession of such land, building, street, road or passage to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply,—

(a) in the case of any land, building, street, road or passage situated in any area falling within the Presidency-town of Bombay, Calcutta or Madras, to the Commissioner of Police;

(b) in the case of any land, building, street, road or passage situated in any area other than the area referred to in clause (a), to the Executive Magistrate,

and such Commissioner or Magistrate, as the case may be, shall enforce the surrender of the land, building, street, road or passage to the competent authority or to the person duly authorised by it.

Right to enter into the land where right of user, etc., is vested in the Central Government.

12. Where the right of user in, or any right in the nature of easement on, any land, building, street, road or passage has vested in the Central Government under section 10, it shall be lawful for the metro railway administration or any officer or other employee of the Central Government to enter and do any other act necessary upon the land, building, street, road or passage for carrying out the construction of the metro railway or any other work connected therewith.

Determination of amount payable for acquisition.

13. (1) Where any land, building, street, road or passage is acquired under this Act, there shall be paid an amount which shall be determined by the competent authority.

(2) Where the right of user in, or any right in the nature of an easement on, any land, building, street, road or passage is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land, building, street, road or passage has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1) for that land, building, street, road or passage.

(3) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties the amount shall, on an application by either of the parties, to the arbitrator, be determined by the arbitrator.

(4) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (3), as the case may be, shall take into consideration—

(a) the market value of the land, building, street, road or passage on the date of publication of the notification under section 7;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, building, street, road or passage by reason of the acquisition injuriously affecting his other immovable property in any other manner, or his earnings;

(d) if, in consequence of the acquisition of the land, building, street, road or passage, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

Deposit and payment of amount

14. (1) The amount determined by the competent authority under section 13 shall be deposited by the Central Government in such manner as may be prescribed with the competent authority before taking possession of the land, building, street, road or passage.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land, building, street, road or passage is situated.

(5) Where the amount determined under section 13 by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at six per cent. per annum on such excess amount from the date of taking possession under section 11 till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be prescribed with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

Competent authority to have certain powers of civil court.

15. 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:—

5 of 1908.

(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.

Arbitrator.

16. (1) For every metro railway the Central Government shall, for the purposes of this Act, appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court.

(2) The arbitrator may, if he thinks it expedient so to do, call in his aid one or more assessors and hear the references wholly or partially with the aid of such assessors.

(3) Subject to the provisions of this section the provisions of the Arbitration Act, 1940, shall apply to every arbitration under this Act. 10 of 1940.

Land Acquisition Act 1 of 1894 not to apply.

17. Nothing in the Land Acquisition Act, 1894, shall apply to an acquisition under this Act.

CHAPTER IV

CONSTRUCTION OF WORKS

Functions of metro railway administration.

18. Subject to the control of the Central Government, the metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith,—

(a) make or construct in, upon, across, under or over any lands, buildings, streets, roads, railways or tramways or any rivers, canals, brooks, streams or other waters or any drains, water-pipes, gas-pipes, electric lines or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, ways or passages, as the metro railway administration thinks proper;

(b) alter the course of any rivers, canals, brooks, streams or water-courses for the purpose of constructing tunnels, passages or other works over or under them and divert or alter as well temporarily as permanently, the course of any rivers, canals, brooks, streams or water-courses or any drains, water-pipes, gas-pipes, electric lines or telegraph lines or raise or sink the level thereof in order the more conveniently to carry them over or under, as the metro railway administration thinks proper;

(c) make drains or conduits into, through or under, any lands adjoining the metro railway for the purpose of conveying water from or to the metro railway;

(d) erect or construct such houses, warehouses, offices and other buildings and such yards, stations, engines, machinery, apparatus and other works and conveniences, as the metro railway administration thinks proper;

(e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead;

(f) draw, make or conduct such maps, plans, surveys or tests, as the metro railway administration thinks proper;

(g) do all other acts necessary for making, maintaining, altering or repairing and using the metro railway.

19. (*1*) The metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith, have power— **Powers of metro railway administration.**

(*a*) to enter into contracts and leases and to execute all instruments necessary therefor;

(*b*) to make such number of rail tracks as the Central Government may think necessary upon, under, along or across any land, canal, river, street or road on or in the metro alignment and all other works and conveniences in connection therewith;

(*c*) to open or divert, as the case may be, any street, road, cable, trench, drain (including a sewer), channel, ditch, culvert or any other device (whether for carrying of sullage, sewage, offensive matter, polluted water, trade effluent, rain water, sub-soil water or any other object), electric or gas supply line or tele-communication line, or telegraph installation, over, across or under any land, building, street, road, railway or tramway;

(*d*) to burrow tunnels;

(*e*) to lay down signalling and other communication facilities, electric sub-stations, supply lines and other works;

(*f*) to regulate drilling of tubewells or sinking of wells, public or private, in the proximate vicinity of the metro alignment;

(*g*) to do all other things necessary or expedient for the exercise of any of the aforesaid powers.

(*2*) While exercising any powers under sub-section (*1*), the metro railway administration shall take such precautionary measures as are necessary, shall do as little damage as possible and shall be liable only for the damage or cost actually suffered or incurred by any person as a result of the exercise of such powers.

20. (*1*) Any person who proposes to develop any land or building along or on the metro alignment shall, before commencing such development and without in any way limiting his obligation under any other Act to obtain any approval or consent, submit to the metro railway administration details of the proposed development and shall comply with any conditions imposed by the metro railway administration in respect thereof. **Development over metro alignment.**

(*2*) The metro railway administration shall, while imposing any condition under sub-section (*1*), have regard to—

(*a*) the safety of the metro railway;

(*b*) such other matters as may be prescribed.

21. (*1*) If the Central Government is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, by notification in the Official Gazette,— **Power to prohibit or regulate construction of buildings and excavation.**

(*a*) direct that no building or any such development as may be specified in the notification shall be constructed or made above the metro alignment or on any land within such distance, not exceeding

ten metres on either side of the metro alignment, as may be specified in the notification and where there is any building on such land also direct the owner of, or the person having control over, such building to demolish such building or to make such additions or alterations to such building as may be specified in the notification or to desist from making any such development and within such period as may be specified in the notification;

(*b*) direct temporary evacuation of all persons together with any movable property or animal that may be in the custody, control or possession of such persons from any building situated above the metro alignment or in any area within a distance not exceeding twenty metres on either side of such alignment and within such period as may be specified in the notification.

Provided that before issuing any notification under this clause, the Central Government shall provide every such person temporarily with alternative accommodation, which in its opinion is suitable, free of cost, or an amount, which in its opinion is sufficient, to procure a temporary alternative accommodation.

(*2*) Where any property is needed or likely to be needed for providing any alternative accommodation under the proviso to clause (*b*) of sub-section (*1*), such property shall be deemed to be needed for a public purpose under section 3 of the Requisitioning and Acquisition of Immovable Property Act, 1952, and the competent authority under that Act shall requisition the property in accordance with the provisions of that Act and such provisions shall, in relation to such requisition, apply accordingly. 30 of 1952.

(*3*) In specifying the distance under clause (*a*) of sub-section (*1*), the Central Government shall have regard to—

(*a*) the nature and the requirement of the metro railway;

(*b*) the safety of the building;

(*c*) such other matters as may be prescribed.

(*4*) Where any notification has been issued under sub-section (*1*) directing the owner or the person having control over any building to demolish such building or to make additions or alterations to such building or to desist from making any development specified in such notification, a copy of the notification containing such direction shall be served on the owner of, or the person having control over, such building, as the case may be,—

(*i*) by delivering or tendering it to such owner or person; or

(*ii*) if it cannot be delivered or tendered, by delivering or tendering it to the agent of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(*iii*) by post.

(5) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).

Payment of amount for prohibition of construction, etc.

22. (1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 21 any person sustains any loss or damage, such person shall be paid an amount which shall be determined by the competent authority in the first instance.

(2) If the amount determined by the competent authority is not acceptable to either of the parties, the amount shall, on an application by either of the parties to the arbitrator, be determined by the arbitrator.

(3) The competent authority or the arbitrator, while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall take into consideration—

(i) the loss or damage sustained by such person in his earnings;

(ii) the diminution, if any, of the market value of the land or building immediately after the date of publication of such notification;

(iii) where in pursuance of any direction any building has been demolished or any additions or alterations to such building have been made or any development has been desisted by such person, the damage sustained by him in consequence of such demolition or the making of such additions or alterations or the desisting from making such development and the expenses incurred by such person for such demolition or additions or alterations:

Provided that the expenses incurred for such demolition or additions or alterations shall not be taken into consideration if such demolition or additions or alterations has or have been done by the metro railway administration under sub-section (2) of section 36;

(iv) if any such person is compelled to change his residence or place of business the reasonable expenses, if any, that may have to be incurred by him incidental to such change.

Power to underpin building or otherwise strengthen it.

23. (1) If the metro railway administration is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, underpin or otherwise strengthen any building within such radius not exceeding fifty metres from the metro alignment.

(2) The metro railway administration shall give to the owner or occupier of such building at least ten days notice in writing before undertaking the work of underpinning or otherwise strengthening the building:

Provided that where the metro railway administration is satisfied that an emergency exists, no such notice shall be necessary.

(3) Where the underpinning or strengthening was executed in connection with—

(a) the carrying out of the works upon the land where any building is situated, or

(*b*) the construction or operation of any metro railway,

the metro railway administration may, at any time after the underpinning or strengthening of such building is completed and before the expiration of a period of twelve months,—

(*i*) in a case referred to in clause (*a*), from the completion of such works; and

(*ii*) in a case referred to in clause (*b*), from the date on which traffic was opened in the metro railway,

enter upon and survey such building and do such further underpinning or strengthening thereon as it may deem necessary.

Power to enter, etc.

24. (*1*) With a view to making survey, or to ascertaining the nature or condition, of any land or building for the purpose of construction of any metro railway or any other work connected therewith, the metro railway administration or any person authorised by that administration may, at any reasonable hour in the day time and after giving reasonable notice to the owner or occupier of such land or building, enter upon or into such land or building in, along, over or near the metro alignment to—

(*a*) inspect the same;

(*b*) make measurements and drawings and take photographs thereof and such other suitable measures as may be necessary to explore and check up, by digging trial pits or otherwise, the foundation of any building in the vicinity of the metro alignment;

(*c*) take such other measures as the said administration deems necessary and proper.

(*2*) Without prejudice to the powers conferred on it under section 19, the metro railway administration may, by writing, request any person or body of persons controlling any sewer, storm water drain, pipe, wire or cable to carry out at the expense of the metro railway administration any alterations thereto which that administration is authorised or may be required to carry out to meet any particular situation for carrying out the purposes of this Act.

(*3*) If any difference or dispute arises between the metro railway administration and the person or body of persons referred to in sub-section (*2*) in relation to any such alterations or the cost thereof, such difference or dispute shall be determined by the Central Government in consultation (wherever necessary) with the State Government and the decision of the Central Government in this regard shall not be called in question in any court.

Amount payable for damage, loss or injury.

25. (*1*) Where the metro railway administration exercises any power conferred on it by or under this Act and in consequence thereof any damage, loss or injury is sustained by any person interested in any land, building, street, road or passage, the metro railway administration shall be liable to pay to such person for such damage, loss or injury such amount as may be determined by the competent authority.

(*2*) If the amount determined by the competent authority under sub-section (*1*) is not acceptable to either of the parties, the amount payable

shall, on application by either of the parties to the arbitrator, be determined by the arbitrator.

(3) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage, loss or injury sustained by any person interested in the land, building, street, road or passage by reason of—

(i) the removal of trees or standing crops, if any;

(ii) the temporary severance of the land, building, street, road or passage;

(iii) any injury to any other property whether movable or immovable.

Right to claim for damages.

26. No claim in respect of any damage, loss or injury alleged to have been caused as a consequence of construction of any metro railway or any other work connected therewith under this Act shall lie against the metro railway administration unless such claim is made within a period of twelve months from the date of completion of the construction of such metro railway or other work in the area in which such damage, loss or injury is caused.

CHAPTER V

INSPECTION OF METRO RAILWAY

Appointment and duties of commissioner.

27. (1) The Central Government may appoint as many persons as it thinks fit by name or by virtue of their office to be commissioners of metro railway.

(2) Every commissioner shall—

(a) inspect the metro railway with a view to determining whether it is fit to be opened for public carriage of passengers and report thereon to the Central Government;

(b) make such periodical or other inspections of any metro railway or of any rolling stock used thereon as the Central Government may direct;

(c) perform such other duties as may be imposed on him by or under this Act or any other enactment for the time being in force relating to railways or required by the Central Government.

Powers of Commissioners.

28. Subject to the control of the Central Government every commissioner shall have the power—

(a) to enter upon and inspect any metro railway or any rolling stock used thereon;

(b) to make any enquiry or to take any measurement as he thinks fit for the performance of his duties under this Act;

(c) by an order in writing under his hand and official seal addressed to any metro railway administration, to require the attendance before him of any officer or other employee of the metro railway and to require answers or returns, to such enquiries as he thinks

fit to make, from such officer or other employee or from the said administration;

(*d*) to require the production of any book or other documents belonging to, or in the possession or control of, any metro railway administration which it appears to him to be necessary to inspect for the performance of his duties by or under this Act.

Facilities to be afforded to commissioner.

29. Every metro railway administration shall afford to every commissioner all reasonable facilities for performing the duties or exercising the powers imposed or conferred upon him by or under this Act.

CHAPTER VI

MISCELLANEOUS

Surplus land to be sold or otherwise disposed of.

30. Every metro railway administration may, with the previous approval of the Central Government, sell or otherwise dispose of any land vested in the Central Government under the provisions of this Act when such land is no longer required for the purposes of the metro railway.

Notice of accidents and enquiries.

31. (*1*) If any accident occurs during the construction of any metro railway or at any stage subsequent thereto as a consequence of such construction and the accident results in, or is likely to have resulted in, loss of human being or animal or damage to any property, it shall be the duty of the metro railway administration to give notice to the Central Government of the occurrence of any such loss or damage in such form and within such time as may be prescribed.

(*2*) On receipt of a notice under sub-section (*1*), the Central Government may, if it thinks fit, appoint a commission to enquire into the accident and report as to—

(*a*) the cause of such accident;

(*b*) the manner in which and the extent to which the provisions of this Act or any other Act for the time being in force in so far as those provisions regulate and govern the safety of any person, animal or property, have been complied with.

(*3*) The commission appointed under sub-section (*2*), while holding an enquiry, shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery or 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.

Power to alter the entries in the Schedule.

32. (*1*) The Central Government may, by notification in the Official Gazette,—

(*a*) add to the Schedule the metro alignment in respect of a metropolitan city to which this Act is made applicable under sub-section (*3*) of section 1;

(*b*) alter any metro alignment specified in the Schedule if it is of opinion that such alteration is necessary for the construction and maintenance of the metro railway to which such alignment relates.

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

Prohibition of obstruction.

33. No person shall, without any reasonable cause or excuse, obstruct any person with whom the metro railway administration has entered into a contract, in the performance or execution by such person of such contract.

Local authorities to assist.

34. Every local authority shall render such help and assistance and furnish such information to the metro railway administration as that administration may require for discharging its functions and shall make available to the said administration for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of such functions.

Prohibition of removal of marks.

35. No person shall remove any marks placed or fill up any trench cut for the purpose of marking levels, boundaries or lines by the metro railway administration.

Penalty for failure to comply with directions issued under section 21.

36. (*1*) If any person wilfully fails to comply with any direction contained in any notification issued under section 21, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(*2*) Without prejudice to the provisions of sub-section (*1*), if any person fails to demolish any building or make additions or alterations thereto in pursuance of any direction contained in any notification issued under section 21 within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the metro railway administration in this behalf to demolish such building or make necessary additions or alterations thereto.

General provision for punishment of offences.

37. Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for such contravention elsewhere in this Act or the rules, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Offences by companies.

38. (*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 had 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 or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Bar of jurisdiction.

39. No suit or application for injunction shall lie in any court against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway or any person working for or on behalf of the metro railway administration, in respect of any work done or purported to have been done or intended to be done by it or the said administration or such officer or other employee or such person in connection with the construction of any metro railway or any other work connected therewith.

Effect of Act and rules, etc., inconsistent with other enactments.

40. The provisions of this Act or any rule made or any notification issued thereunder 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.

Protection of action taken in good faith.

41. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government, the metro railway administration or any officer or other employee of that Government or the metro railway for anything which is in good faith done or intended to be done under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Power to to remove difficulties.

42. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall, in relation to any metropolitan city, be made after the expiry of a period of two years from the date on which this Act applies or is made applicable to such metropolitan city under sub-section (*3*) of section 1.

Application of the Indian Railways Act, 1890.

9 of 1890.

43. Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Railways Act, 1890.

Power to make rules.

44. (*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 the following matters, namely:—

(*a*) the times and places at which the Advisory Board shall meet and the procedure in regard to transaction of business by the Advisory Board under sub-section (*5*) of section 4;

(*b*) the term of office of the members of the Advisory Board under sub-section (*6*) of section 4;

(*c*) the times and places at which the committees shall meet and the procedure in regard to transaction of business by the committees under sub-section (*2*) of section 5;

(*d*) the payment of fees, allowances and travelling allowances to the members of the committee under sub-section (*3*) of section 5;

(*e*) the form in which an application for acquisition shall be made under section 6;

(*f*) the places at which and the manner in which the substance of the notification shall be published under sub-section (*3*) of section 7;

(*g*) the manner in which the amount shall be deposited with the competent authority under sub-sections (*1*) and (*6*) of section 14;

(*h*) the matters to be specified under clause (*b*) of sub-section (*2*) of section 20;

(*i*) the matters to be specified under clause (*c*) of sub-section (*3*) of section 21;

(*j*) the form in which and the time within which a notice shall be given under sub-section (*1*) of section 31;

(*k*) any other matter which is required 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or 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.

Saving.

45. Notwithstanding anything contained in this Act any proceeding, for the acquisition of any land, under the Land Acquisition Act, 1894, for the purpose of any metro railway, pending immediately before the commencement of this Act before any court or other authority shall be continued and be disposed of under that Act as if this Act had not come into force. 1 of 1894.

THE DELHI POLICE ACT, 1978

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SCHEDULE I.

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SCHEDULE III.

THE DELHI POLICE ACT, 1978

No. 34 OF 1978

[27th August, 1978.]

An Act to amend and consolidate the law relating to the regulation of the police in the Union territory of Delhi.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title extent and commencement.

1. (1) This Act may be called the Delhi Police Act, 1978.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall be deemed to have come into force on the 1st day of July, 1978.

Definitions.

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

(a) "Administrator" means the Administrator of Delhi appointed under article 239 of the Constitution;

(b) "cattle" includes elephants, camels, horses, asses, mules, sheep, goats and swine;

(c) "competent authority", when used with reference to the exercise of any power or discharge of any duty under the provisions of this Act, means the Commissioner of Police appointed under section 6 or any other police officer specially empowered in that behalf by the Central Government;

(d) "constable" means a police officer of the lowest grade;

(e) "Corporation" means the Municipal Corporation of Delhi constituted under the Delhi Municipal Corporation Act, 1957;

66 of 1957.

(f) "Delhi" means the Union territory of Delhi;

(g) "Delhi police" or "police force" means the police force referred to in section 3 and includes—

(i) all persons appointed as special police officers under sub-section (1) of section 17 and additional police officers appointed under section 18; and

(*ii*) all other persons, by whatever name known, who exercise any police function in any part of Delhi;

(*h*) "eating house" means any place to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises by any person owning, or having any interest in, or managing, such place and includes—

(*i*) a refreshment room, boarding house or coffee house, or

(*ii*) a shop where any kind of food or drink is supplied to the public for consumption in or near such shop,

but does not include a place of public entertainment;

(*i*) "municipality" means the New Delhi Municipal Committee, the Cantonment Board or any other municipal body, other than the Corporation, established by or under any law for the time being in force in or in any part of Delhi;

(*j*) "place" includes—

(*i*) any building, tent, booth or other erection, whether permanent or temporary; and

(*ii*) any area, whether enclosed or open;

(*k*) "place of public amusement" means any place where music, singing, dancing or game or any other amusement, diversion, or recreation or the means of carrying on the same is provided, to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted and includes a race course, circus, theatre, music hall, billiard or bagatelle room, gymnasium, fencing school, swimming pool or dancing hall;

(*l*) "place of public entertainment" means a lodging house, boarding and lodging house or residential hostel, and includes any eating house or other place in which any kind of liquor or intoxicating drug is supplied (such as a tavern or a shop where beer, spirit, arrack, toddy, ganja, bhang or opium is supplied) to the public for consumption in or near such place;

(*m*) "police officer" means any member of the Delhi police;

(*n*) "prescribed" means prescribed by rules;

(*o*) "public place" means any place to which the public have access, whether as of right or not, and includes—

(*i*) a public building and monument and precincts thereof; and

(*ii*) any place accessible to the public for drawing water, washing or bathing or for purposes of recreation;

(*p*) "regulations" means regulations made under this Act;

(*q*) "rules" means rules made under this Act;

(*r*) "street" includes any highway, bridge, way over a causeway, viaduct or arch or any road, lane, footway, square, court,

alley or passage accessible to the public, whether or not it is a thoroughfare;

(s) "subordinate ranks" means members of the police force of and below the rank of the Inspector;

(t) "vehicle" means any carriage, cart, van, dray, truck, hand-cart or other conveyance of any description and includes a bicycle, tricycle, a rickshaw, a motor vehicle, a vessel or an aeroplane.

CHAPTER II

ORGANISATION, SUPERINTENDENCE AND CONTROL OF THE POLICE FORCE

One police force for the whole of Delhi.

3. There shall be one police force for the whole of Delhi and all officers and subordinate ranks of the police force shall be liable for posting to any branch of the force including the Delhi Armed Police.

Superintendence of police force to vest in the Administrator.

4. The superintendence of the Delhi police throughout Delhi shall vest in, and be exercisable by the Administrator and any control, direction or supervision exercisable by any officer over any member of the police force shall be exercisable subject to such superintendence.

Constitution of police force.

5. Subject to the provisions of this Act,—

(a) the Delhi police shall consist of such number in the several ranks and have such organisation and such powers, functions and duties as the Administrator may, by general or special order, determine; and

(b) the recruitment to, and the pay, allowances and all other conditions of service of the members of, the Delhi police shall be such as may be prescribed:

Provided that nothing in clause (b) shall apply to the recruitment to, and the pay, allowances and other conditions of service of the members of the Indian Police Service or the Delhi, Andaman and Nicobar Islands Police Service.

Commissioner of Police.

6. For the direction and supervision of the police force in Delhi, the Administrator shall appoint a Commissioner of Police who shall exercise and perform such powers and duties and perform such functions as are specified by or under this Act.

Additional Commissioner of Police.

7. (1) The Administrator may appoint one or more Additional Commissioners of Police for the purposes of this Act.

(2) The Additional Commissioner of Police shall—

(a) assist the Commissioner of Police in the exercise of his powers and the performance of his duties in such manner and to such extent, and

(b) exercise such powers and perform such duties of the Commissioner of Police and within such local limits,

as the Administrator may, by general or special order, specify.

Deputy, Additional Deputy and Assistant Commissioners of Police.

8. (*1*) The Administrator may appoint one or more Deputy Commissioners of Police or Additional Deputy Commissioners of Police or Assistant Commissioners of Police for the purposes of this Act.

(*2*) Without prejudice to the other provisions of this Act and subject to any general or special orders made by the Administrator in this behalf, every Deputy Commissioner of Police or Additional Deputy Commissioner of Police or Assistant Commissioner of Police shall, under the orders of the Commissioner of Police, exercise such of the powers (except the power to make regulations) and perform such of the duties of the Commissioner of Police and within such local limits as may be specified in such orders.

Appointment of Principals of Police training institutions.

9. (*1*) (*a*) The Administrator shall appoint a police officer not below the rank of a Deputy Commissioner of Police to be the Principal of the Police Training School for Delhi.

(*b*) The Commissioner of Police may by general or special order assign to the Principal of the Police Training School such powers and duties as he may deem fit for the proper functioning of that School.

(*2*) (*a*) The Administrator may establish a Police Training College for Delhi and appoint a police officer of appropriate rank to be the Principal of such College.

(*b*) The Commissioner of Police may by general or special order assign to the Principal of the Police Training College such powers and duties as he may deem fit for the proper administration of that College.

Constitution of police districts, sub-divisions and police stations.

10. Subject to the control of the Administrator, the Commissioner of Police shall—

(*a*) constitute police districts within Delhi;

(*b*) divide such police districts into police sub-divisions and specify the police stations comprised in each such sub-division; and

(*c*) define the limits and extent of such police districts, police sub-divisions and police stations.

Officers in charge of police districts, police sub-divisions and police stations.

11. (*1*) Each police district shall be under the charge of a Deputy Commissioner of Police who may be assisted in the discharge of his duties by one or more Additional Deputy Commissioners of Police.

(*2*) Each police sub-division shall be under the charge of an Assistant Commissioner of Police and each police station shall be under the charge of an Inspector of Police.

12. Subject to such general or special orders in writing as the Administrator may make in this behalf,— Appointment of subordinate ranks.

(*a*) Inspectors of Police may be appointed by the Additional Commissioner of Police; and

(*b*) Sub-Inspectors of Police and other officers of subordinate rank may be appointed by the Deputy Commissioners of Police, Additional Deputy Commissioners of Police, Principal of the Police Training College or of the Police Training School, or any other police officer of equivalent rank.

13. (*1*) Every police officer of the rank of Inspector and below shall on enrolment receive a certificate of appointment. Certificate of appointment.

(*2*) The certificate shall be issued under the seal of such officer, and shall be in such form, as the Administrator may, by general or special order, specify.

(*3*) A certificate of appointment shall become null and void when the person named therein ceases to belong to the Delhi police or shall remain inoperative during the period such person is suspended from the Delhi police.

14. The powers, functions and privileges vested in a police officer shall remain suspended while such police officer is under suspension from office: Effect of suspension of police officer.

Provided that notwithstanding such suspension such person shall not cease to be a police officer and shall continue to be subject to the control of the same authorities to which he would have been subject if he had not been under suspension.

15. The Commissioner of Police shall direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfilment of their duties by the police force under him. General powers of Commissioner of Police.

16. The Commissioner of Police shall have the authority to investigate and regulate all matters of account connected with the Delhi police and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations and to conform to his orders consequent thereto. Power of Commissioner of Police to investigate and regulate matters of police accounts.

17. (*1*) The Commissioner of Police may, at any time, by a written order, signed by himself and sealed with his own seal, appoint any able bodied male person not less than eighteen years of age, whom he considers fit, to be a special police officer to assist the Delhi police on any occasion, when he has reason to apprehend the occurrence of any riot or grave disturbance of the peace in any area and he is of opinion that the ordinary police force is not sufficient for the protection of persons residing, and for the security of property, within such area. Special police officers.

(2) The Commissioner of Police shall publish the names of special police officers appointed under this section in such manner as may be prescribed.

(3) Any person objecting to the appointment of any person as such special police officer may send his reasons for such objection to the Commissioner of Police within fifteen days of such appointment and the Commissioner may accept such objection and cancel the appointment of such officer or, after giving to the objector an opportunity to be heard, reject the objection.

(4) Every special police officer appointed under this section shall, on appointment,—

(*a*) receive a certificate of appointment in such form as may be specified by the Administrator in this behalf;

(*b*) have the same powers, privileges and immunities and perform the same duties and be subject to the same authorities as an ordinary police officer.

Additional police officers.

18. Where additional police officers are required to be deputed under section 38, section 39 or section 40 the Commissioner of Police may appoint such number of additional police officers as he considers necessary and every such additional police officer shall, on appointment,—

(*a*) receive a certificate of appointment in such form as may be specified by the Administrator in this behalf;

(*b*) have such of the powers, privileges and immunities and perform such of the duties of a police officer as are specifically mentioned in the certificate; and

(*c*) be subject to the same authorities as an ordinary police officer of the same or similar rank or grade.

CHAPTER III

REGULATION, CONTROL AND DISCIPLINE OF THE DELHI POLICE

Framing of regulations for administration of the police.

19. Subject to the orders of the Administrator, the Commissioner of Police may make regulations not inconsistent with this Act or any other law for the time being in force—

(*a*) regulating the inspection of the police force by his subordinates;

(*b*) determining the description and quantity of arms, accoutrements, clothing and other necessaries to be furnished to the police;

(*c*) prescribing the places of residence of members of the police force;

(*d*) for institution, management and regulation of any police fund for any purpose connected with police administration;

(*e*) regulating the distribution, movements and location of the police;

(f) assigning duties to police officers of all ranks and grades, and prescribing the manner in which, and the conditions subject to which they shall exercise and perform their respective powers and duties;

(g) regulating the collection and communication by the police of intelligence and information;

(h) generally, for the purpose of rendering the police efficient and preventing abuse or neglect of their duties.

Commissioner of Police may call for returns.

20. The Commissioner of Police may call for such returns, reports and statements on any subject connected with the prevention and detection of crime, the maintenance of order and the performance of the duties of his subordinates as such subordinates may be able to furnish to him.

Powers of punishment.

21. (1) Subject to the provisions of article 311 of the Constitution and the rules, the Commissioner of Police, Additional Commissioner of Police, Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School or any other officer of equivalent rank, may award to any police officer of subordinate rank any of the following punishments, namely:—

(a) dismissal;

(b) removal from service;

(c) reduction in rank;

(d) forfeiture of approved service;

(e) reduction in pay;

(f) withholding of increment; and

(g) fine not exceeding one month's pay.

(2) Subject to the rules—

(a) any police officer specified in sub-section (1) may award the punishment of censure to any police officer of subordinate rank;

(b) the Assistant Commissioner of Police may award the punishment of censure to police officers of, or below, the rank of Sub-Inspectors of Police;

(c) any police officer of, and above, the rank of Inspector may award punishment drill not exceeding fifteen days or fatigue duty or any other punitive duty to constables.

(3) Nothing in sub-section (1) or sub-section (2) shall affect any police officer's liability for prosecution and punishment for any offence committed by him.

(4) The Commissioner of Police, Additional Commissioner of Police, Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School, Assistant Commissioner of Police, or any other police officer of equivalent rank may suspend any police officer of subordinate rank who is reasonably suspected to be guilty of misconduct, pending an investigation or enquiry into such misconduct.

(5) An Inspector of Police may suspend any police officer below the rank of Sub-Inspector of Police, who is reasonably suspected to be guilty of misconduct, pending an investigation or enquiry into such misconduct.

Procedure for awarding punishments.

22. When any officer passes an order of awarding a punishment of dismissal, removal from service, reduction in rank, forfeiture of service, reduction in pay, withholding of increments or fine, he shall record such order or cause the same to be recorded together with the reasons therefor, in accordance with the rules.

Appeal from orders of punishment.

23. An appeal against any order of punishment passed against a police officer under section 21 or the rules thereunder [not being an order of punishment under clause (c) of sub-section (2) of that section] shall lie—

(a) where the order is passed by the Commissioner of Police, to the Administrator;

(b) where the order is passed by an Additional Commissioner of Police, to the Commissioner of Police;

(c) where the order is passed by a Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or School, Assistant Commissioner of Police or any other officer of equivalent rank, to the Additional Commissioner of Police.

Police officers to be deemed to be always on duty and to be liable to employment in any part of Delhi.

24. Every police officer not on leave or under suspension shall for all purposes of this Act be deemed to be always on duty and any police officer or any number or body of police officers allocated for duty in any part of Delhi may, if the Commissioner of Police so directs, at any time, be employed on police duty in any other part of Delhi for so long as the services of the police officer or number or body of police officers may be required in such other part of Delhi.

Circumstances under which police officer of subordinate rank may resign.

25. (1) Resignation of any police officer of subordinate rank may be accepted only by the officer empowered to appoint (the officer so empowered to appoint being hereafter in this section referred to as the appointing authority) officers of such subordinate rank.

(2) A police officer of subordinate rank who intends to resign from police service shall give to the appointing authority notice in writing to that effect and shall not be permitted to withdraw himself from duty unless he has been granted permission to resign by such authority and two months have elapsed from the date on which he tendered his resignation:

Provided that the appointing authority may at his discretion, permit a Head Constable or a constable to withdraw himself from duty on his crediting to the Government two months' pay in lieu of notice.

(3) A Head Constable or a constable who has agreed to serve for any specific period may not be permitted to resign before the expiry of that period.

(4) Inspectors, Sub-Inspectors or Assistant Sub-Inspectors of Police, whose appointments involve training at any Police Training College or

Police Training School may not be permitted to resign within three years from the date of their successfully completing the training.

(5) No police officer of subordinate rank whose resignation has been accepted by the appointing authority shall be permitted to withdraw from duty until he has fully discharged all debts, due from him as such police officer to Government or to any police fund and has surrendered his certificate of appointment, arms, accoutrements, uniform and all other Government property in his possession and has also rendered a complete account of all Government money and property for which he is responsible.

(6) Notwithstanding anything contained in this section if any police officer of subordinate rank tenders his resignation on medical grounds and produces a certificate signed by the police surgeon or any other medical officer authorised by the Administrator in this behalf declaring him to be unfit by reason of disease or mental or physical incapacity for further service in the police, the appointing authority shall forthwith permit him to withdraw from duty on his discharging, or giving a satisfactory security for the payment of, any debt due from him as such police officer to Government or to any police fund:

Provided that he shall forthwith return the certificate of appointment, arms, accoutrements, uniform and all other Government property in his possession before he is permitted to withdraw from duty.

(7) If any such police officer of subordinate rank resigns or withdraws himself from the duties of his office in contravention of this section, he shall be liable on the orders of the appointing authority to forfeit all arrears of pay then due to him in addition to the penalty to which he may be liable under section 22 or any other law for the time being in force.

(8) Every such police officer on leaving the service in the Delhi police as aforesaid shall be given by the appointing authority a Discharge Certificate in such form as may be prescribed.

Certificate, arms, etc., to be delivered by person ceasing to be a police officer.

26. (1) Every person who for any reason ceases to be a police officer shall forthwith deliver to the officer empowered by the Commissioner of Police, the Additional Commissioner of Police, Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School, Additional Deputy Commissioner of Police or any other officer of equivalent rank to whom such officer is subordinate, to receive the same, his certificate of appointment and the arms, accoutrements, clothing and other accessories which have been provided to him for the performance of duties and functions connected with his office.

(2) (a) Any Metropolitan Magistrate and, for special reasons which shall be recorded in writing at the time, the Commissioner of Police, Additional Commissioner of Police, Principal of the Police Training College or of the Police Training School or a Deputy Commissioner, Additional Deputy Commissioner or an Assistant Commissioner of Police may issue a warrant to search for and seize wherever they be found, any certificate, arms, accoutrements, clothing or other accessories not delivered under sub-section (1).

(*b*) Every warrant so issued shall be executed by a police officer or, if the Metropolitan Magistrate or the police officer issuing the warrant so directs, by any other person in the same manner as if it were a warrant for a search issued under the Code of Criminal Procedure, 1973. 2 of 1974.

(*3*) Nothing in this section shall apply in relation to any article which under the orders of the Commissioner of Police has become the property of the person to whom the same was provided.

Occupation of, and liability to vacate, premises provided for police officers.

27. (*1*) A police officer occupying any premises provided by the Commissioner of Police for his residence shall—

(*a*) occupy the same subject to such terms and conditions as may, by general or special order, be specified by the Commissioner of Police; and

(*b*) notwithstanding anything contained in any law for the time being in force, vacate the same on his ceasing to be a police officer or whenever the Commissioner of Police or any officer authorised by the Administrator in this behalf considers it, for reasons to be recorded in writing, necessary and expedient to require him to do so.

(*2*) If any person who is bound or required under sub-section (*1*) to vacate any premises fails to do so, the Administrator or the officer authorised in this behalf by the Administrator may order such person to vacate the premises and may direct any police officer with such assistance as may be necessary to enter upon the premises and remove therefrom any person found therein and to take possession of the premises and deliver the same to any person specified in the direction.

CHAPTER IV

POLICE REGULATIONS

Power to make regulations for regulating traffic and for preservation of order in public places, etc.

28. (*1*) The Commissioner of Police may, by notification in the Official Gazette, make regulations to provide for all or any of the following matters, namely:—

(*a*) licensing and controlling persons offering themselves for employment, outside railway stations and other places where passengers arrive, for the carriage of passengers' baggages and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed;

(*b*) regulating traffic of all kinds in streets and other public places, and the use of streets and other public places by persons riding, driving, cycling, walking or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public;

(*c*) regulating the conditions under which vehicles may remain standing in streets and other public places, and the use of streets as halting places for vehicles or cattle;

(*d*) specifying the number and position of lights to be used on vehicles in streets and the hours between which such lights should be used;

(*e*) licensing, controlling or prohibiting the erection, exhibition, fixation or retention of any sign, device or representation for the

purpose of advertisement, which is visible against the sky from some point in any street and is hoisted or held aloft over any land, building or structure at such height as may be specified in the regulations, having regard to the traffic in the vicinity, and the likelihood of such sign, device or representation at that height being a distraction, or causing obstruction, to such traffic;

(*f*) specifying certain hours of the day during which cattle shall not be driven, or, as the case may be, driven only in accordance with such regulations, along the streets, or along certain specified streets;

(*g*) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street;

(*h*) regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance;

(*i*) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting the carrying in streets and public places of gunpowder or any other explosive substance;

(*j*) prohibiting, except along certain specified streets and during specified hours and subject to such conditions as may be specified in that behalf, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases, the carcasses of animals or parts of such carcasses or corpses of persons deceased;

(*k*) specifying certain hours of the day during which ordure or offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets except in accordance with such regulations;

(*l*) setting apart places for slaughtering animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matter and for obeying calls of nature;

(*m*) in cases of existing or apprehended epidemic or infectious disease of men or animals, the cleanliness and disinfection of premises by the occupier thereof and residents therein and the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by the Administrator, with a view to prevent the disease or check the spread thereof;

(*n*) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only, the use of any source, supply or receptacle of water and providing against pollution of the same or of the water therein;

(*o*) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments in or near streets or other public places;

(*p*) regulating the conduct of or behaviour or action of persons constituting assemblies and processions on or along the streets and specifying in the case of processions, the routes by which, the order in which, and the times at which, the same may pass;

(*q*) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air;

(*r*) prohibiting, except in accordance with such regulations, the placing of building materials or other articles or the fastening or detention of any horse or other animals in any street or public place;

(*s*) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting—

(*i*) the illumination of streets and public places and the exteriors of building abutting thereon by persons other than servants of Government or Corporation or other Municipal officers duly authorised in that behalf,

(*ii*) the blasting of rock or making excavations in or near streets or public places,

(*iii*) the using of a loudspeaker in or near any public place or in any place of public entertainment;

(*t*) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable;

(*u*) guarding against injury to person and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours or the public;

(*v*) prohibiting the setting of fire to or burning of any straw or other matter, or lighting a bonfire or wantonly discharging a fire-arm or air-gun, or letting off or throwing a fire work or, sending up a fire balloon or rocket in or upon a street or within fifty feet of a street or building or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination except in accordance with regulations in this behalf;

(*w*) regulating the hours during which and the manner in which any place for the disposal of the dead, any *dharmashala*, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;

(*x*) (*i*) licensing or controlling places of public amusement or public entertainment;

(*ii*) prohibiting the keeping of places of public amusement or public entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity; and

(*iii*) regulating the means of entrance and exit at places of public amusement or public entertainment or assembly and providing for the maintenance of public order and the prevention of disturbance thereat;

(*y*) (*i*) licensing or controlling in the interest of public order, decency or morality or in the interest of the general public (with such exceptions as may be specified in such regulations), musical, dancing, mimetic or theatrical or other performances for public amusement, including *melas;*

(*ii*) regulating in the interest of public order, decency or morality or in the interest of the general public, the employment of artists and the conduct of the artists and the audience at such performances;

(*iii*) prior scrutiny of such performances and of the scripts in respect thereof, if any, and granting of suitability certificate therefor subject to conditions, if any, by a Board appointed by the Administrator for the purpose, either for the whole of Delhi or for the area concerned or by an Advisory Committee constituted by the Commissioner of Police (the members of the Board or the Advisory Committee being persons who in the opinion of the Administrator or, as the case may be, the Commissioner, possess knowledge of, or experience in literature, the theatre and other matters relevant to such scrutiny), provision for appeal against the order or decision of the Board or the Advisory Committee to an appellate authority, its appointment or constitution, its procedure and other matters ancillary thereto, and the fees (whether in the form of court-fee stamps or otherwise) to be charged for the scrutiny of such performances or scripts, for applications for obtaining such certificates and for issuing duplicates thereof and in respect of such appeals and any such performances and of the scripts in respect thereof granted suitability certificate by any State shall be exempted from this section;

(*iv*) regulating the hours during which and the places at which such performances may be given;

(*z*) regulating or prohibiting the sale of any ticket or pass for admission, by whatever name called, to a place of public amusement;

(*za*) registration of eating houses, including granting a certificate of registration in each case, which shall be deemed to be a written permission required and obtained under this Act for keeping the eating house, and annual renewal of such registration within a specified period;

(*zb*) prescribing the procedure in accordance with which any licence or permission sought to be obtained or required under this Act should be applied for and fixing the fees to be charged for any such licence or permission:

Provided that nothing in this section and no licence or certificate of registration granted under any regulation made thereunder shall authorise any person to import, export, transport, manufacture, sell or

possess any liquor, or intoxicating drug, in respect of which a licence, permit, pass or authorisation is required under any law relating to prohibition which is for the time being in force.

(2) The power to make regulations under clause (*b*) of sub-section (*1*) shall be subject to the control of the Administrator and the power to make regulations under the other clauses of that sub-section shall be subject to the previous sanction of the Administrator.

(*3*) The power of making regulations under this section shall be subject to the condition of the regulations being made, after previous publication and for the purposes of section 23 of the General Clauses Act, 1897 such regulations shall be deemed to be rules; and every regulation made, under this section, shall also be published in the locality affected thereby by affixing copies thereof in conspicuous places near to the building, structure, work or place, as the case may be, to which the same specially relates or by proclaiming the same by the beating of drum or by advertising the same in such local newspapers in Hindi, Urdu and English, or in two or more of these languages, as the Commissioner of Police may deem fit, or by any two or more of these means, or by any other means he may think suitable: 10 of 1897.

Provided that any such regulation may be made without previous publication if the Commissioner of Police is satisfied that circumstances exist which render it necessary that such regulation should be brought into force at once.

(*4*) If any regulation made under this section relates to any matter with respect to which there is a provision in any law, rule or bye-law of the Corporation or of any other municipal or local authority in relation to public health, convenience or safety of the locality such regulation shall be subject to such law, rule or bye-law.

Power to give directions to the public.

29. The Commissioner of Police and, subject to the orders, if any, made by the Commissioner of Police, every police officer not inferior in rank to an Inspector, may from time to time as occasion may arise, but not so as to contravene any regulation made under section 28 or any law, rule, or bye-law referred to in sub-section (*4*) of that section, give all such orders either orally or in writing as may be necessary to—

(*a*) direct the conduct of, and behaviour or action of persons constituting processions or assemblies on or along streets;

(*b*) specify the routes by which and the times at which any such processions may pass or shall not pass;

(c) prevent obstructions—

(*i*) on the occasion of all processions and assemblies; and

(*ii*) in the neighbourhood of all places of worship during the time of worship; and

(*iii*) in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;

(*d*) keep order on, and in, all streets, and at, and within, public bathing and washing places, fairs, temples, mosques, gurdwaras, churches and all other places of public resort or public worship;

(e) regulate and control the playing of music, singing or the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments in, and near, any street or public place;

(f) regulate and control the use of loudspeakers in residential areas, streets, near any public places and places of public amusement or public entertainment; or

(g) make reasonable orders consequential to, and in furtherance of, any order made under this section.

Power to prohibit certain acts for prevention of disorder.

30. (1) The Commissioner of Police may, whenever and for such time as he shall consider necessary for the preservation of public peace or public safety, by notification publicly promulgated or addressed to individuals, prohibit, in relation to the whole of Delhi or any part thereof,—

(a) the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks or lathis, or any other article, which is capable of being used for causing physical violence;

(b) the carrying of any corrosive substance or explosives;

(c) the carrying, collection or preparation of stones or other missiles or instruments or means of casting or impelling missiles;

(d) the exhibition of persons or corpses;

(e) the public utterance of cries, singing of songs or playing of music; or

(f) the delivery of harangues, the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other subject or thing which may, in the opinion of the Commissioner of Police, offend against decency or morality or undermine the security of the State.

(2) If any person goes armed with any such article as is referred to in clause (a) of sub-section (1) or carries any corrosive substance or explosive or missile or instrument in contravention of any prohibition under that sub-section, the article, corrosive substance or explosive or missile shall be liable to be seized from him by any police officer.

(3) The Commissioner of Police may, by notification publicly promulgated, prohibit any assembly or procession whenever and for such time as he considers such prohibition to be necessary for the preservation of the public order.

(4) No notification promulgated under sub-section (3) shall remain in force for more than fifteen days from the promulgation thereof:

Provided that if the Administrator considers it necessary so to do for the preservation of the public order, he may, by order published in the Official Gazette, direct that such notification shall remain in force for such further period not exceeding six months from the date on which it would have, but for such order, expired as he may specify in the said order.

Police to provide against dis-order, etc., at places of public amusement or public assembly or meeting.

31. (*1*) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub-Inspector and above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings and the maintenance of the public safety at, such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.

(2) Every police officer shall have free access to every place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of sub-section (*1*) and to any direction made thereunder.

Power to prohibit, etc., continuance of music, sound or noise.

32. (*1*) If the Commissioner of Police is satisfied from the report of an officer in charge of a Police Station, or other information received by him, that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury, or risk of annoyance, disturbance, discomfort or injury, to the public or to any person who dwells, or occupies property, in the vicinity, he may, by written order, issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating—

(*a*) the incidence or continuance in any street, open space or any other premises of—

(*i*) any vocal or instrumental music;

(*ii*) sounds caused by the playing, beating, clashing, blowing or use in any manner whatsoever of any instrument, appliance or apparatus or contrivance which is capable of producing or reproducing sound; or

(*iii*) use of loudspeaker or other apparatus for amplifying any musical or other sound at such pitch or volume as may cause disturbance to others, or

(*b*) the carrying on, in any premises, of any trade, avocation or operation resulting in or attended with noise:

Provided that no directions shall be issued to any person under clause (*b*) without giving to such person an opportunity of being heard in the matter.

(*2*) The Commissioner of Police may, either on his own motion or on the application of any person aggrieved by an order made under sub-section (*1*), either rescind, modify or alter any such order:

Provided that before any such application is disposed of, the Commissioner of Police shall afford to the applicant an opportunity of appearing before him either in person or by counsel and showing cause against the order and shall, if he rejects any such application either wholly or in part, record the reasons for such rejection.

33. (1) In order to prevent or suppress any riot or grave disturbance of peace, the Commissioner of Police may temporarily close or take possession of any building or other place and may exclude all or any persons therefrom, or may allow access thereto to such persons only and on such terms as he shall deem expedient and all persons concerned shall be bound to conduct themselves in accordance with such orders as the Commissioner of Police may make and notify in exercise of his powers under this section. Issue of order for prevention of riot, etc.

(2) If the lawful occupant of such building or place suffers any loss or injury by reason of the action taken under sub-section (1), he shall be entitled, on an application made therefor to the competent authority within one month from the date of such action, to receive reasonable compensation for such loss or injury, unless such action was in the opinion of such competent authority rendered necessary either by the use to which such building or place was put, or intended to be put, or by the misconduct of persons having access thereto.

(3) In the event of any dispute in relation to the amount of compensation payable under sub-section (2) or the person to whom such amount shall be payable, the matter shall be referred by the competent authority to the District Collector whose decision thereon shall be final.

34. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organised assemblage in any street or public place, as to which or the conduct of, or participation in, which, it shall appear to the competent authority that a dispute or contention exists, which is likely to lead to grave disturbance of the peace, the competent authority may give such orders as to the conduct of the persons concerned towards each other and towards the public as it shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested and all persons concerned shall obey such orders. Maintenance of order at religious or ceremonial display, etc.

(2) Every such order shall be published in the locality or place wherein it is to operate.

(3) Every order under sub-section (1) shall be subject to any judgment, decree, injunction or order made by a court having jurisdiction, and shall be rescinded or altered on its being made to appear to the competent authority that such order is inconsistent with a judgment, decree, injunction or order of such court.

35. (1) Whenever it shall appear to the Commissioner of Police that any place in Delhi (being a place where on account of a pilgrimage, fair or other such occurrence, large bodies of persons have assembled or are likely to assemble) is visited or likely to be visited with an outbreak of any epidemic disease, he may in consultation with the Corporation or municipality within the local limits of the jurisdiction whereof such place is situated take such special measures and may by a public notice prescribe such regulations to be observed by residents of the said place and persons present thereat or repairing thereto or returning therefrom as he deems necessary to prevent the outbreak of such disease or the spread thereof. Commissioner of Police may take special measures to prevent outbreak of epidemic disease at fairs, etc.

(2) The expenses incurred by the Commissioner of Police in respect of the arrangements for sanitation and the preservation of order at or about the place of assembly referred to in sub-section (1) may be recovered from the Corporation or the municipality concerned.

Power to reserve street or other public place for public purpose and power to authorise erecting of barriers in streets.

36. (1) The Commissioner of Police may, by public notice, temporarily reserve for any public purpose any street or other public place and prohibit persons from entering the area so reserved, except on such conditions as may be specified by him.

(2) The Commissioner of Police may, whenever in his opinion such action is necessary,—

(a) authorise such police officer as he thinks fit to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street so as to satisfy himself that the provisions of any law for the time being in force have not been contravened in respect of any such vehicle or by the driver or the person in charge of such vehicle; and

(b) make such orders as he deems fit for regulating the use of such barriers.

Power to make regulations prohibiting disposal of the dead except at places set apart.

37. (1) The Commissioner of Police may, from time to time, make regulations prohibiting the disposal of the dead, whether by cremation, burial or otherwise at places other than those set apart for such purpose:

Provided that no such regulations shall be made in respect of any area for which places have not been so set apart:

Provided further that the Commissioner of Police or any officer authorised by him in this behalf may, in his discretion, on an application made to him by any person, grant to such person permission to dispose of the corpse of any deceased person at any place other than a place so set apart, if in his opinion such disposal is not likely to cause obstruction to traffic or disturbance of the public peace or is not objectionable for any other reason.

(2) Any regulations made under sub-section (1) shall specify the places set apart for the disposal of the dead of different communities or sections of communities.

(3) All such regulations shall be deemed to be rules for the purposes of section 23 of the General Clauses Act, 1897 and shall be subject to the conditions of previous publication and the date to be specified under clause (3) of that section shall not be earlier than two months from the date on which the draft of the proposed regulations is published. 10 of 1897

CHAPTER V

SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY OF STATE

Employment of additional police to keep peace.

38. (1) The Commissioner of Police may, on the application of any person, depute any additional number of police to keep the peace, to preserve order, to enforce any of the provisions of this Act or of any other law in respect of any particular class or classes of offences or to perform any other duties imposed on the police at any place in Delhi.

(2) Such additional police shall be employed at the cost (which shall be determined by the Commissioner of Police in accordance with the rules made in this behalf) of the person making the application, but shall be subject to the orders of the police authorities and shall be employed for such period as the Commissioner of Police considers necessary.

(3) If the person upon whose application such additional police are employed shall at any time make a written requisition to the Commissioner of Police for the withdrawal of the said police, he shall be relieved from the cost thereof at the expiration of such period not exceeding one week from the date of the delivery of such requisition as the Commissioner of Police shall determine.

(4) Where there is any dispute as to the amount to be paid by way of cost, the Commissioner of Police shall, on an application made in that behalf by the aggrieved party, refer the matter to the District Collector, whose decision thereon shall be final.

Employment of additional police in cases of special danger to public peace.

39. (1) If in the opinion of the Administrator any area in Delhi is in a disturbed or dangerous condition or the conduct of the inhabitants or of any particular section or class of the inhabitants of such area renders it expedient to employ temporarily additional police in the area, he may, by notification in the Official Gazette, specify the area (hereafter in this section referred to as the disturbed area) in which, and the period for which, the additional police shall be employed and thereupon the Commissioner of Police shall depute such number of additional police officers as he considers necessary, in the disturbed area:

Provided that the period so specified may be extended by the Administrator from time to time, if in his opinion it is necessary so to do in the interests of the public.

(2) On the issue of a notification under sub-section (1), the Administrator may require the District Collector, or any other authority specified by the Administrator, to recover, whether in whole or in part, the cost of such additional police generally from all persons who are inhabitants of the disturbed area or specially from any particular section or class of such persons, and in such proportion as the Administrator may direct.

(3) It shall be lawful for the Administrator to exempt, by order in writing, and for sufficient reasons, any person from liability to bear any portion of the cost of such additional police.

Explanation.—In this section and in section 41, the expression "inhabitants", when used in relation to any disturbed area, includes persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area and landlords who themselves or by their agents or servants collect rent from holders or occupants of land in such area notwithstanding that they do not actually reside therein.

Employment of additional police at large work and when apprehension regarding behaviour of employees exists.

40. (1) Whenever it appears to the Administrator or to the competent authority that—

(a) any large work which is being carried on or any public amusement which is being conducted in any place is likely to impede the traffic or to attract a large number of people; or

(b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern, under construction or in operation at any place necessitates the employment of additional police at such place,

the Administrator, or the competent authority, as the case may be, may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to the Administrator or the competent authority to continue.

(2) Such additional police shall be employed at the cost of the person by whom the work, public amusement, manufactory or concern is being constructed, conducted or carried on and the said person shall pay the costs therefor at such rates as the Administrator or the competent authority, as the case may be, shall from time to time require.

Compensation for injury caused by unlawful assembly how recoverable.

41. (1) When any loss or damage is caused to any property or when death results or grievous hurt is caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly, the Administrator may, by notification in the Official Gazette, specify the area (hereafter in this section called the "disturbed area") in which, and the date on which or the period during which, such unlawful assembly was, in his opinion, held.

(2) On the issue of a notification under sub-section (1), the District Collector may, after such inquiry as he deems necessary, determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of the loss or damage or death or grievous hurt aforesaid.

(3) The amount of the compensation shall be deemed to be a fine imposed under this section, and shall be payable by the inhabitants of the disturbed area.

(4) It shall be lawful for the District Collector to exempt, by order in writing and for sufficient reasons, any person from liability to pay any portion of the compensation amount.

Dispute in regard to cost of deputing additional police or compensation under section 41.

42. In the event of any dispute relating to the cost payable under section 39 or section 40 or the compensation determined under section 41 of the person or persons or the section or class of persons by whom or the proportion in which such cost or compensation should be paid, the matter shall be referred by the Collector, or the Administrator or the competent authority, as the case may be, on an application made in that behalf by the aggrieved party, to the Chief Metropolitan Magistrate, whose decision thereon shall be final.

43. Any amount payable under section 38, section 39, section 40 or section 41 shall be recovered in the same manner as if it were an arrear of land revenue.

Recovery of amount payable under section 38, 39, 40 or 41.

44. (1) Amounts payable under section 38, section 39, section 40 or section 41 shall, when recovered, be credited to the Government.

Collector to award compensation.

(2) The District Collector shall pay, from the amounts recovered by him as compensation payable under section 41, such amount as he deems just and proper by way of compensation to any person who has suffered loss or damage to property or grievous hurt or to the legal heirs of any person who died, by reason of anything done in the prosecution of the common object of the unlawful assembly.

(3) No compensation shall be paid under this section, except when a claim has been made therefor within forty-five days from the date of the notification referred to in sub-section (1) of section 41 and the District Collector is satisfied that the claimant, where the claim is by the person who suffered the loss, damage or grievous hurt, or the deceased, where the claim is by the legal heirs of such deceased, has been free from blame in connection with the occurrence which led to the loss, damage, grievous hurt or death.

(4) The compensation payable to any person under sub-section (2) shall not in any way be capable of being assigned or charged or be liable to attachment or to pass to any person other than the person entitled to it by operation of law, nor shall any claim be set off against the same.

(5) No civil suit shall be maintainable in respect of any loss, damage or grievous hurt for which compensation has been granted under this section.

45. Without prejudice to the provisions contained in section 43, all amounts payable under section 39 or section 41 shall be recoverable in the manner provided in sections 421 and 422 of the Code of Criminal Procedure, 1973, as if each such amount were a fine imposed on an offender by a court.

Recovery of amounts payable under sections 39 and 41.

2 of 1974.

46. Whenever it appears to the Commissioner of Police that the movement or encampment of any gang or body of persons in any part of Delhi is causing or is calculated to cause danger to person or property or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body of persons or by members thereof, the Commissioner of Police may, by order addressed to the persons appearing to be the leaders or chief men of such gang or body of persons and published by announcement or beat of drums, or otherwise as the Commissioner of Police thinks fit direct the members of such gang or body of persons—

Dispersal of gangs and bodies of persons.

(a) to so conduct themselves as shall seem necessary in order to prevent violence and alarm; or

(b) to disperse and to remove themselves beyond the limits of Delhi, or any part thereof, within such time as the Commissioner

of Police shall specify and not to enter Delhi or the part thereof, as the case may be, from which they were directed to remove themselves.

Removal of persons about to commit offences.

47. Whenever it appears to the Commissioner of Police—

(a) that the movements or acts of any person are causing or are calculated to cause alarm, danger or harm to person or property; or

(b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code or under section 290 or sections 489A to 489E (both inclusive) of that Code or in the abetment of any such offence; or 45 of 1860.

(c) that such person—

(i) is so desperate and dangerous as to render his being at large in Delhi or in any part thereof hazardous to the community; or

(ii) has been found habitually intimidating other persons by acts of violence or by show of force; or

(iii) habitually commits affray or breach of peace or riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or

(iv) has been habitually passing indecent remarks on women and girls, or teasing them by overtures;

and that in the opinion of the Commissioner of Police witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property, the Commissioner of Police may, by order in writing duly served on such person, or by beat of drum or otherwise as he thinks fit, direct such person to so conduct himself as shall seem necessary in order to prevent violence and alarm or to remove himself outside Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or part thereof, as the case may be, from which he was directed to remove himself.

Explanation.—A person who during a period within one year immediately preceding the commencement of an action under this section has been found on not less than three occasions to have committed or to have been involved in any of the acts referred to in this section shall be deemed to have habitually committed that act.

Removal of persons convicted of certain offences.

48. If a person has been convicted—

(a) of an offence under Chapter XII, Chapter XVI or Chapter XVII of the Indian Penal Code; or 45 of 1860

(b) of an offence under section 3 or section 4 of the Delhi Public Gambling Act, 1955, or under section 12 of that Act in so far as it relates to satta gambling or on two or more occasions under any other provision of that Act (including section 12 of that Act in so far as it does not relate to satta gambling); or Delhi Act 9 of 1955.

104 of 1956. (c) of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956; or

54 of 1959. (d) of any offence under section 25, section 26, section 27, section 28 or section 29 of the Arms Act, 1959; or

52 of 1962. (e) of any offence under section 135 of the Customs Act, 1962; or

Punjab Act No. 18 of 1955. (f) of any offence under section 61, section 63 or section 66 of the Punjab Excise Act, 1955, as in force in Delhi; or

(g) on two or more occasions of an offence under—

1 of 1878. (i) the Opium Act, 1878; or

2 of 1930. (ii) the Dangerous Drugs Act, 1930; or

23 of 1940. (iii) the Drugs and Cosmetics Act, 1940; or

Bombay Act No. 10 of 1960. (iv) section 11 of the Bombay Prevention of Begging Act, 1959, as in force in Delhi; or

(h) on three or more occasions of an offence under section 105 or section 107 of this Act,

the Commissioner of Police may, if he has reason to believe that such person is likely again to engage himself in the commission of any of the offences referred to in this section, by order in writing, direct such person to remove himself beyond the limits of Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or any part thereof, as the case may be, from which he was directed to remove himself.

Period of operation of orders under section 46, 47 or 48.

49. Any direction made under section 46, section 47 or section 48 not to enter Delhi or any part thereof, shall be for such period as may be specified therein, and shall in no case exceed a period of two years from the date on which it was made.

Hearing to be given before order under section 46, 47 or 48 is passed.

50. (1) Before an order under section 46, section 47 or section 48 is made against any person, the Commissioner of Police shall by notice in writing inform him of the general nature of the material allegations against him and give him a reasonable opportunity of tendering an explanation regarding them.

(2) If such person makes an application for the examination of any witness to be produced by him, the Commissioner of Police shall grant such application and examine such witness, unless for reasons to be recorded in writing, the Commissioner of Police is of opinion that such application is made for the purpose of causing vexation or delay.

(3) Any written explanation put in by such person shall be filed with the record of the case.

(4) Such person shall be entitled to be represented in the proceeding before the Commissioner of Police by a counsel.

(5) (a) The Commissioner of Police may for the purpose of securing the attendance of any person against whom any order is proposed to be made under section 46, section 47 or section 48 require such person, by order in writing, to appear before him and to furnish a security bond with or without sureties for attendance during the inquiry.

(*b*) The provisions of sections 119 to 124 (both inclusive) of the Code of Criminal Procedure, 1973, shall, so far as may be, apply in relation to the order under clause (*a*) to furnish security bond. 2 of 1974.

(*6*) Without prejudice to the foregoing provisions, the Commissioner of Police, while issuing notice to any person under sub-section (*1*) may issue a warrant for his arrest and the provisions of sections 70 to 89 (both inclusive) of the Code of Criminal Procedure, 1973, shall, so far as may be, apply in relation to such warrant. 2 of 1974.

(*7*) The provisions of section 445, section 446, section 447 or section 448 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply in relation to all bonds executed under this section. 2 of 1974.

Appeal against orders under section 46, 47 or 48.

51. (*1*) Any person aggrieved by an order made under section 46, section 47 or section 48 may appeal to the Administrator within thirty days from the date of the service of such order on him.

(*2*) An appeal under this section shall be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order appealed against, and shall be accompanied by that order or a certified copy thereof.

(*3*) On receipt of such appeal, the Administrator may, after giving a reasonable opportunity to the appellant to be heard either personally or by a counsel and after such further inquiry, if any, as he may deem necessary, confirm, vary or set aside the order appealed against:

Provided that the order appealed against shall remain in force pending the disposal of the appeal, unless the Administrator otherwise directs.

(*4*) The Administrator shall make every endeavour to dispose of an appeal under this section within a period of three months from the date of receipt of such appeal.

(*5*) In calculating the period of thirty days provided for an appeal under this section, the time taken for obtaining a certified copy of the order appealed against, shall be excluded.

Finality of order in certain cases.

52. An order passed by the Commissioner of Police under section 46, section 47 or section 48 or the Administrator under section 51 shall not be called in question in any court except on the ground—

(*a*) that the Commissioner of Police or the Administrator, as the case may be, had not followed the procedure laid down in sub-section (*1*), sub-section (*2*) or sub-section (*4*) of section 50 or in section 51, as the case may be; or

(*b*) that there was no material before the Commissioner of Police or the Administrator, as the case may be, upon which he could have based his order; or

(*c*) in the case of an order made under section 47 or an order in appeal therefrom to the Administrator under section 51, the Commissioner of Police or the Administrator, as the case may be, was not of the opinion that witnesses were unwilling to come forward to give evidence in public against the person against whom such order has been made.

53. If a person to whom a direction has been issued under section 46, section 47 or section 48 to remove himself from Delhi or any part thereof—

(a) fails to remove himself as directed; or

(b) having so removed himself enters Delhi or any part thereof within the period specified in the order, otherwise than with the permission in writing of the Commissioner of Police under section 54,

the Commissioner of Police may cause him to be arrested and removed in police custody to such place outside Delhi or any part thereof as the Commissioner of Police may in each case specify.

Procedure on failure of person to leave the area and his entry therein after removal.

54. (1) The Commissioner of Police or any other police officer specially empowered by the Administrator in that behalf may, by order in writing, permit any person, in respect of whom an order under section 46, section 47 or section 48 has been made, to return to Delhi or any part thereof, from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observance of the conditions imposed.

(2) The Commissioner of Police may at any time revoke any such permission.

(3) Any person who with such permission returns to Delhi or any part thereof shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside Delhi or any part thereof, as the case may be, and shall not return thereto within the unexpired portion of the period specified in the original order made under section 46, section 47 or section 48 without a fresh permission.

(4) If such person fails to observe any of the conditions imposed, or to remove himself accordingly or having so removed himself enters or returns to Delhi or any part thereof, as the case may be, without fresh permission, the Commissioner of Police may cause him to be arrested and removed in police custody to such place outside Delhi or part thereof as the Commissioner of Police may in each case specify.

Temporary permission to enter and consequences of non-observance of conditions of such permission.

55. Every person against whom an order has been made under section 46, section 47 or section 48 shall, if so required by the Commissioner of Police, allow his measurements and photograph to be taken by a police officer in the prescribed manner.

Taking measurements and photographs, etc., of persons against whom an order under section 46, 47 or 48 is made.

56. (1) If any person as aforesaid when required to allow his measurements or photograph to be taken resists or refuses to allow the taking of such measurements or photograph, it shall be lawful to use all necessary means to secure the taking thereof.

(2) Resistance to or refusal to allow the taking of measurements,

Resistance to the taking of measurements, etc.

or photographs under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code. 45 of 1860.

(3) Where an order under section 46, section 47 or section 48 is set aside in appeal, all measurements and photographs (including negatives) taken under this section shall be destroyed or made over to the person against whom such order is made.

Banning of use of dress, etc., resembling uniform of armed forces.

57. (1) If the Administrator is satisfied that the wearing in public, by any member of any body, or association or organisation, of any dress or article of apparel resembling any uniform required to be worn by a member of the Armed Forces of the Union or by a member of any police force or of any force constituted by or under any law for the time being in force, is likely to prejudice the security of the State or the maintenance of public order, he may, by a general or special order, prohibit or restrict the wearing, or display, in public of any such dress or article of apparel by any member of such body or association or organisation.

(2) Every general or special order under sub-section (1) shall be published in the manner prescribed for the publication of a public notice under section 142.

Explanation.—For the purposes of this section a dress or an article of apparel shall be deemed to be worn or displayed in public if it is worn or displayed in any place to which the public have access.

Constitution of Defence Societies.

58. (1) For the protection of persons, the security of property and the public safety in any locality the Commissioner of Police may constitute voluntary bodies (hereafter in this section referred to as Defence Societies) in the prescribed manner.

(2) The Commissioner of Police or any officer of a Defence Society may at any time call up officers subordinate to him or any member of a Defence Society for training or to discharge any of the duties under this Act assigned to them.

(3) Every officer or member of a Defence Society shall—

(a) on appointment receive a certificate in such form as may be specified or approved by the Administrator in this behalf; and

(b) when called up for duty have the same powers, privileges and protection as are vested in a police officer appointed under this Act.

(4) Notwithstanding anything contained in any law for the time being in force, an officer or member of a Defence Society shall not be disqualified for being chosen as, or for being, a member of—

(a) the Delhi Metropolitan Council or the Municipal Corporation of Delhi; or

(b) any other local authority,

by reason of the fact that he is a member or officer of such Society.

CHAPTER VI

EXECUTIVE DUTIES AND POWERS OF POLICE OFFICERS

Duty of police officer to enforce provisions of the Act.

59. (1) It shall be the duty of every police officer to ensure compliance with the provisions of this Act or any rule, regulation or order made thereunder and for that purpose such police officer may,—

(a) warn persons who from ignorance fail to comply with any provision of this Act or any rule, regulation or order made thereunder;

(b) require any person acting or about to act contrary to any provision of this Act or rule, regulation or order made thereunder, to desist from so doing;

(c) subject to the provisions of sub-sections (2) and (3), arrest any person contravening any provision of this Act or any rule, regulation or order made thereunder, where such contravention is an offence punishable under this Act;

(d) seize any object used, or about to be used, in contravening, or in contravention of, the provisions of this Act or any rule, regulation or order made thereunder, where such contravention is an offence punishable under this Act.

(2) A police officer shall not arrest any person under clause (c) of sub-section (1) without a warrant issued by a Metropolitan Magistrate, unless such person—

(a) has contravened any regulation made under clause (b) of sub-section (1) of section 28;

(b) has contravened any order or notification made under section 29, sub-section (1) or sub-section (2) of section 30, section 32, section 47, section 48 or sub-section (1) of section 57;

(c) commits in the presence of such police officer an offence punishable under section 97, sub-section (1) of section 108, clause (a), (b) or (c) of section 110 or sub-section (2) of section 113 in respect of the contravention of any order made under section 33 or section 34;

(d) has committed, or is reasonably suspected to have committed, an offence punishable under section 100 in relation to any dwelling house, private premises or any other land or ground attached thereto:

Provided that the person in possession or having charge of that dwelling house, private premises or land or ground complains of the commission of such offence;

(e) has committed, or is reasonably suspected to have committed an offence punishable under section 101, section 102 or clause (c) of sub-section (2) of section 113;

(f) commits in his presence in any street or public place any non-cognizable offence punishable under this Act or any rule or regulation made thereunder if such person—

(i) after being warned by the police officer persists in committing such offence; or

(ii) refuses to accompany the police officer to a police station on being required so to do.

(3) The Commissioner of Police or any other police officer especially empowered in this behalf by the Commissioner of Police may arrest without a warrant issued by a Metropolitan Magistrate any person who has committed an offence punishable under section 92.

Other duties of a police officer.

60. It shall be the duty of every police officer—

(*a*) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by the competent authority and to comply with all lawful commands of his superior;

(*b*) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences and to lay such information and to take such other steps consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice and to prevent the commission of cognizable and, within his view, of non-cognizable offences;

(*c*) to prevent to the best of his ability the commission of public nuisances;

(*d*) to apprehend without unreasonable delay all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason;

(*e*) to aid any other police officer when called upon by such other police officer or in the case of need in the discharge of the duty of such other police officer, in such ways as would be lawful and reasonable on the part of the officer aided;

(*f*) to prevent the breach of the public peace;

(*g*) to afford every assistance within his power to disabled or helpless persons in the streets;

(*h*) to take charge of intoxicated persons and of lunatics at large, who appear dangerous or incapable of taking care of themselves;

(*i*) to take prompt measures to procure necessary help for any person under arrest or in custody, who is wounded or sick and whilst guarding or conducting any such person to have due regard to his condition;

(*j*) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;

(*k*) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;

(*l*) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness;

(*m*) to use his best endeavours to prevent any loss or damage by fire;

(*n*) to use his best endeavours to avert any accident or danger to the public;

(*o*) to regulate and control the traffic in the streets, to prevent obstructions therein and to the best of his ability, to prevent the contravention of any rule, regulation or order made under this

Act or any other law in force for observance by the public in or near the streets;

(p) to keep order in the streets and at and within public bathing and washing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship;

(q) to regulate resort to public bathing and washing places and all other places of public resort, to prevent overcrowding there and to the best of his ability, to prevent the contravention of any regulation or order lawfully made for observance by the public at such place; and

(r) to discharge such other duties as are imposed upon him by any law for the time being in force.

Power to enter places of public resort.

61. Subject to the provisions of this Act and the rules, regulations and orders made thereunder, every police officer may, for the purpose of discharging any of the duties referred to in section 59 or section 60 enter without a warrant and inspect any place of public resort which he has reason to believe is used as a place for the storing, sale or consumption of intoxicating drinks or narcotics or a place for resort of loose and disorderly characters.

Power to search suspected persons in street, etc.

62. When in a street or a place of public resort a person is in possession or suspected to be in possession of any article which a police officer in good faith suspects to be stolen property, such police officer may search such person and may require an account in relation to any article found in his possession and should the account given by the possessor be manifestly false or suspicious, may detain such article after giving to the possessor a receipt in the prescribed form and report the facts to a Metropolitan Magistrate who shall thereupon proceed according to the provisions of sections 457, 458 and 459 of the Code of Criminal Procedure, 1973.

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Emergency duties of police.

63. (1) The Administrator may, by notification in the Official Gazette, declare any specified service to be an essential service to the community.

(2) A declaration made under sub-section (1) shall remain in force for one month in the first instance, but may be extended from time to time by a like notification.

(3) Upon a declaration being made under sub-section (1) and so long as it remains in force, it shall be the duty of every police officer to obey any order given by any superior officer in relation to any employment in connection with the service specified in the declaration.

Superior police officer may himself perform duties imposed on a subordinate officer.

64. A police officer of a rank superior to that of a constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and in the case of any duty imposed on such subordinate, a superior may aid, supplement, supersede, or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding any infringement thereof.

Persons bound to comply with the reasonable directions of police officer.

65. (1) All persons shall be bound to comply with the reasonable directions given by a police officer in the discharge of his duties under this Act.

(2) Where any person resists, refuses or fails to comply with any direction referred to in sub-section (1), a police officer may, without prejudice to any other action that he may take under any other provision of this Act or any other law for the time being in force, remove such person and either produce him before a Metropolitan Magistrate or, in trivial cases, release him when the occasion which necessitated the removal has ceased to exist:

Provided that the person so removed shall in all cases be produced before the Metropolitan Magistrate or released, as the case may be, within a period of twenty-four hours of such removal.

CHAPTER VII

POWERS IN RELATION TO UNCLAIMED PROPERTY

Police to take charge of unclaimed property.

66. (1) It shall be the duty of every police officer to take temporary charge—

(a) of all unclaimed property found by, or made over to, him; and

(b) of all property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same, refuses or fails to do so.

(2) The police officer taking charge of the property under sub-section (1) shall furnish an inventory thereof to the Commissioner of Police.

Procedure for disposal of property taken charge of under section 66.

67. (1) Where any property has been taken charge of under sub-section (1) of section 66, the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists and requiring that any person who may have a claim thereto shall appear before him or some other officer whom he authorises in this behalf and establish his claim within six months from the date of such proclamation.

(2) If the property, or any part thereof, is subject to speedy and natural decay or consists of livestock or if the property appears to be of the value of less than fifty rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(3) Where any person who has a claim to the property is required by the proclamation under sub-section (1) to appear before the other officer authorised by the Commissioner of Police in that behalf and establish his claim, such officer shall forward the record of the proceedings before him with his findings thereon to the Commissioner of Police.

Delivery of property to person entitled.

68. (1) The Commissioner of Police on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under sub-section (1) of section 67 order the same to be delivered to him, after deduction or payment of the expenses incurred by the Delhi police in the seizure and detention thereof.

(2) The Commissioner of Police may, at his discretion, before making any order under sub-section (1), take such security as he may think proper from the person to whom the said property is to be delivered and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

In default of claim, property to be at disposal of Government.

69. (1) If no person establishes his claim to such property within the period specified in the proclamation, the property, or such part thereof as has not already been sold under sub-section (2) of section 67, may be sold by auction under the orders of the Commissioner of Police and the proceeds thereof shall be credited to the Government.

(2) If any claim is made to any proceeds credited under sub-section (1) to the Government and if such claim is established, whether wholly or to any extent, to the satisfaction of the prescribed authority, the Administrator shall pay to the claimant the amount determined in that behalf by the prescribed authority.

(3) The form and manner in which claims may be made under sub-section (2) and the procedure for dealing with such claims and all other matters connected therewith shall be such as may be prescribed.

CHAPTER VIII

SPECIAL PROVISIONS RELATING TO EXERCISE OF POWERS UNDER THE CODE OF CRIMINAL PROCEDURE, 1973

Power of Central Government to authorise Commissioner of Police and certain other officers to exercise powers of District Magistrates and Executive Magistrates under the Code of Criminal Procedure, 1973.

70. (1) The Central Government may, by notification in the Official Gazette and subject to such conditions and limitations as may be specified therein, empower—

(a) the Commissioner of Police to exercise and perform in relation to Delhi the powers and duties of an Executive Magistrate and of a District Magistrate under such of the provisions of the Code of Criminal Procedure, 1973, as may be specified in the notification;

2 of 1974.

(b) any officer subordinate to the Commissioner of Police (not being an officer below the rank of an Assistant Commissioner of Police) to exercise and perform in relation to such areas in Delhi as may be specified in the notification the powers and duties of an Executive Magistrate under such of the provisions of the said Code as may be specified in the notification.

(2) Every officer subordinate to the Commissioner of Police shall, in the exercise and performance of any powers and duties which he is empowered to exercise or perform under sub-section (1), be subject to the general control of the Commissioner of Police in the same manner and to the same extent as an Executive Magistrate appointed under section 20 of the said Code would be subject to the general control of the District Magistrate appointed under that section.

(3) The Commissioner of Police or any officer subordinate to him shall not be subject in the exercise and performance of any powers and duties which he is empowered to exercise and perform under sub-section (1), to the general control of the District Magistrate appointed under section 20 of the said Code.

(4) The provisions of this section shall have effect notwithstanding anything contained in the said Code.

Notifications under section 70 to be laid before Parliament.

71. Every notification made by the Central Government under section 70 shall be laid, as soon as it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

References to Judicial Magistrate of the first class in sections 108, 109 and 110 of the Code of Criminal Procedure, 1973 not to be construed as references to an Executive Magistrate.

72. (1) The notification of the Government of India in the Ministry of Home Affairs No. S.O. 224(E), dated the 30th March, 1974, under section 478 of the Code of Criminal Procedure, 1973, shall cease to have effect and accordingly references to a Judicial Magistrate of the first class in sections 108, 109 and 110 of the said Code shall cease to be construed in respect of Delhi as references to an Executive Magistrate. 2 of 1974.

(2) All proceedings, under the said sections, pending before any Executive Magistrate immediately before the cesser of operation under sub-section (1) of the notification referred to therein shall, upon such cesser of operation, stand transferred to the Metropolitan Magistrate who would have jurisdiction if such proceedings had been instituted after such cesser of operation.

(3) Subject to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897, shall apply to the cesser of operation of the notification referred to in sub-section (1) as if such cesser of operation of the notification were a repeal of an enactment by a Central Act. 10 of 1897.

CHAPTER IX

Special powers under the Prevention of Cruelty to Animals Act, 1960

Powers with regard to offences under Act 59 of 1960.

73. (1) When in respect of an animal an offence punishable under sub-section (1) of section 11 or section 12 of the Prevention of Cruelty to Animals Act, 1960 has been committed, or when there is a reasonable ground for suspecting that such offence has been committed, a police officer may—

(a) take the animal to the Metropolitan Magistrate, or

(b) if the accused person so requires, take the animal to a veterinary officer specified by general or special order by the Administrator in this behalf:

Provided that the police officer may, instead of taking the animal to a veterinary officer, take the animal for detention in a dispensary, or in any suitable place approved by the Administrator by general or special order and the animal shall thereupon be detained there until its production before a Metropolitan Magistrate, or

(c) take the animal to an infirmary appointed under section 35 of the said Act for treatment and detention therein, pending direction of a Magistrate under sub-section (2) of that section, or

(d) when the animal is in such physical condition that it cannot be taken to a veterinary officer or a Metropolitan Magistrate, draw

up a report of the condition of the animal in the presence of two or more respectable persons describing such wound, sores, fractures, bruises, or other marks of injury as may be found on the body of the animal:

Provided that the police officer may take the animal for detention in a dispensary or any suitable place approved by the Administrator by general or special order and the animal shall thereupon be detained there until its production before a Metropolitan Magistrate.

(2) Where an animal is detained in a dispensary, infirmary or other place under sub-section (1), the animal shall be produced before a Metropolitan Magistrate with the least possible delay and in any case within a period not exceeding three days from the date on which it was so detained.

Powers of Metropolitan Magistrate to return animal to person from whose possession it was taken.

74. When the animal is brought before a Metropolitan Magistrate under section 73, the Magistrate may direct the animal to be returned to the person from whose possession it was taken on such person giving security to the satisfaction of the Metropolitan Magistrate binding himself to produce the animal when required or may direct that the animal shall be sent for treatment and care to an infirmary and be detained there as provided in section 35 of the Prevention of Cruelty to Animals Act, 1960 or may make such order as he thinks fit regarding the disposal or custody or production of the animal.

59 of 1960.

Veterinary officer to examine the animal.

75. The veterinary officer before whom an animal is brought under section 73 shall with all convenient speed examine the same and draw up a report of such examination and a copy of the report of such examination shall be delivered free of charge to the accused person if he applies for it.

Animal to be dealt with under Act 59 of 1960.

76. When under section 73, a police officer takes an animal for detention in a dispensary or infirmary or other place before its production before a Metropolitan Magistrate or a Metropolitan Magistrate directs its further detention in an infirmary, sub-sections (3) to (7) (both inclusive) of section 35 of the Prevention of Cruelty to Animals Act, 1960 shall, as far as may be, apply in relation to the detention of the animal (including the cost of transport, maintenance and treatment of the animal) in the dispensary, infirmary or other place.

Power of police officer to unsaddle animal or to unload it.

77. When a police officer in good faith suspects that any animal being employed in any work or labour is, by reason of any sore, unfit to be so employed, he may require the person in charge of such animal to unsaddle or unload it for the purpose of ascertaining whether any sore exists and, if any person refuses to do so, such police officer may himself unsaddle or unload the animal or may cause the same to be unsaddled or unloaded.

Arrest without warrant in case of certain offences under Act 59 of 1960.

78. Any police officer may arrest, without a warrant from a Magistrate, any person committing in his presence any offence punishable under clauses (*a*) to (*m*) (both inclusive) of sub-section (1) of section 11 of the Prevention of Cruelty to Animals Act, 1960.

Provisions of Chapter to be in addition to the provisions of Act 59 of 1960.

79. The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Prevention of Cruelty to Animals Act, 1960.

CHAPTER X

OFFENCES AND PUNISHMENTS

Disregarding the rules of the road.

80. No person shall—

(*a*) when driving a vehicle along a street (except in cases of actual necessity or of some other sufficient reason for deviation) fail to keep on the left side of such street and when passing any other vehicle proceeding in the same direction fail to keep on the right side of such vehicle; or

(*b*) leave in any street or public place insufficiently tended or secured any animal or vehicle.

Causing obstruction or mischief by animal.

81. No person shall cause obstruction, damage, injury, danger, alarm or mischief in any street or public place—

(*i*) by misbehaviour, negligence or ill-usage in the driving, management, treatment or care of any animal or vehicle; or

(*ii*) by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation made in that behalf.

Exposing animal for hire, sale, etc.

82. No person shall in any street or public place expose for hire or sale any animal or vehicle, clean any furniture or vehicle, or clean or groom any horse or other animal except at such times and places as the competent authority permits, or shall train or break in any horse or other animal or make any vehicle or any part of a vehicle or (except when as a result of any accident repairing on the spot is unavoidable) repair any vehicle or part of a vehicle, or carry on therein any manufacture or operation so as to be a serious impediment to traffic or serious annoyance to residents in the vicinity or to the public.

Causing any obstruction in a street.

83. No person shall cause obstruction in any street or public place—

(*a*) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may be necessary for such purpose; or

(*b*) by leaving any vehicle standing or fastening any cattle in the street or the public place; or

(*c*) by using any part of a street or public place as a halting place for vehicles or cattle; or

(*d*) by leaving any box, bale, package or other things whatsoever in or upon a street for an unreasonable length of time or contrary to any regulation; or

(*e*) by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever.

84. No person shall drive, ride, load, propel or leave on any footway any animal or vehicle other than a perambulator or fasten any animal in such a way that the animal can stand across or upon such footway. Obstructing a footway.

85. No person shall, in contravention of any regulation made by the Commissioner of Police,— Causing obstruction and annoyance by performances, etc.

(a) exhibit any mimetic, musical or other performances of such a nature as may attract crowds; or

(b) carry or place bulky advertisements, pictures, figures or emblems in any street or public place,

whereby any obstruction to passengers or annoyance to the residents in the vicinity may be occasioned.

86. No person shall slaughter any animal, clean a carcass or hide, or bathe or wash his person in or near to and within sight of a street or public place, except at a place set apart for the purpose, so as to cause annoyance to the neighbouring residents or to passers-by. Doing offensive acts in or near a street or public place.

87. No person shall in any street or public place— Letting loose horse, etc., and suffering ferocious dogs to be at large.

(a) negligently let loose any horse or other animal, so as to cause danger, injury, alarm or annoyance; or

(b) suffer a ferocious dog to be at large without a muzzle; or

(c) set on or urge a dog or other animal to attack, worry or put in fear any person or horse or other animal.

88. No person shall bathe or wash in, or by the side of, a public well, tank or reservoir not set apart for such purpose by order of the competent authority, or in, or by the side of, any pond, pool, aqueduct, part of a river, stream, nullah or other source or means of water supply in which such bathing or washing is forbidden by order of the competent authority. Bathing or washing in places not set apart for those purposes.

89. No person shall defile or cause to be defiled the water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nullah or other source or means of water supply, so as to render the same less fit for any purpose for which it is set apart by the order of the competent authority. Defiling water in public wells, etc.

90. No person shall obstruct or incommode a person bathing at a place set apart for the purpose by the order of the competent authority under section 88 by wilful intrusion or by using such place for any purpose for which it is not so set apart. Obstructing bathers.

91. No person shall wilfully and indecently expose his person in any street or public place or place of public resort or within sight of, and in such manner as to be seen from, any street or public place or place of public resort, whether from within any house or building or not, or use indecent language or behave indecently or riotously or in a disorderly manner in a street or public place or place of public resort or in any office, police station or station house. Behaving indecently in public.

Obstructing or annoying passengers in the street.

92. No person shall wilfully push, press, hustle or obstruct any passenger in a street or public place or by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening horses or cattle or otherwise, disturb the public peace or order.

Misbehaviour with intent to provoke a breach of the peace.

93. No person shall use in any street or public place any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

Prohibition against flying kites, etc.

94. No person shall fly a kite or any other thing so as to cause danger, injury or alarm to persons, animals or property.

Committing nuisance in or near street, etc.

95. No person shall in or near to any street, public place or place of public resort—

(*a*) commit a nuisance by easing himself; or

(*b*) having the care or custody of any child under seven years of age, suffer such child to commit a nuisance as aforesaid; or

(*c*) spit or throw any dust, ashes, refuse or rubbish so as to cause annoyance to any passer-by.

Disregard of notice in public building.

96. No person shall, in any court, police station, police office or building occupied by Government or building occupied by any local body, smoke, or spit in contravention of a notice, by the competent authority in charge of such place, displayed in such court, police station, police office or building.

Penalties for offences under sections 80 to 96.

97. Any person who contravenes any of the provisions of sections 80 to 96 (both inclusive) shall, on conviction, be punished with fine which may extend to one hundred rupees, or, in default of payment of such fine, with imprisonment for a term not exceeding eight days.

Penalty for failure to keep in confinement cattle, etc.

98. (*1*) Whoever allows any cattle which are his property or in his charge to stray in any street or to trespass upon any public or private property shall on conviction be punished—

(*a*) for the first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to three hundred rupees, or with both; and

(*b*) for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) The Metropolitan Magistrate trying an offence under sub-section (*1*) may order—

(*a*) that the accused shall pay such compensation not exceeding two hundred and fifty rupees as such Magistrate considers reasonable

to any person for any damage proved to have been caused to his property or the produce of his land by the cattle under the control of the accused trespassing on his land; and

(b) that the cattle in respect of which the offence has been committed shall be forfeited to the Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) It shall be the duty of every police officer and it shall be lawful for any other person to seize and take to any cattle pound for confinement therein any cattle found straying in any street or trespassing upon any private or public property.

(5) Any fine imposed under this section may, without prejudice to any other means of recovery provided by law, be recovered by sale of all or any of the cattle in respect of which the offence was committed, whether they are the property of the person convicted of the offence or were only in his charge when the offence was committed.

2 of 1974. (6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under this section shall be cognizable.

Punishment for cruelty to animals.

99. Whoever in any place cruelly beats, goads, overworks, ill-treats or tortures or causes, or procures to be cruelly beaten, goaded, overworked, ill-treated or tortured, any animal shall, on conviction, be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Wilful trespass.

100. Whoever without satisfactory excuse wilfully enters or remains in or upon any dwelling-house or premises or land or ground attached thereto, or on any ground, building, monument or structure belonging to Government or used for public purposes, or on any vehicle, shall, on conviction, whether he causes any actual damage or not, be punished with imprisonment which may extend to seven days or with fine which may extend to one hundred rupees, or with both.

False alarm of fire or damage to fire alarm.

101. Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade of the Government or the Corporation or a municipality or to any officer or fireman thereof, whether by means of a street fire alarm, statement, message or otherwise, or with intent to give such false alarm wilfully breaks the glass of, or otherwise damages, a street fire alarm, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees, or with both.

Being found under suspicious circumstances between sunset and sunrise.

102. Whoever is found between sunset and sunrise—

(a) armed with any dangerous instrument with intent to commit an offence; or

(b) having his face covered, or otherwise disguised with intent to commit an offence; or

(c) in any dwelling-house or other building, or on any vehicle, without being able satisfactorily to account for his presence there; or

(*d*) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself; or

(*e*) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person) any implement of house breaking,

shall, on conviction, be punished with imprisonment for a term which may extend to three months.

Possession of property of which no satisfactory account can be given.

103. Whoever has in his possession or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Metropolitan Magistrate, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees, or with both.

Omission by pawn-brokers, etc., to report to police possession or tender of property suspected to be stolen.

104. Whoever being a pawn-broker, dealer in second hand property, or worker in metals, or reasonably believed by the Commissioner of Police to be such a person, and having received from a police officer written or printed information in relation to any property suspected to have been transferred by any offence mentioned in section 410 of the Indian Penal Code or by any offence punishable under section 417, section 418, section 419 or section 420 of the said Code, is found in possession, or, after the receipt of such information, comes into possession or has an offer, either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering the description contained in such information, shall, unless— 45 of 1860.

(*i*) he forthwith gives information to the Commissioner of Police, or at a police station of such possession or offers and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person from whom the possession or offer was received, or

(*ii*) the property, being an article of common wearing apparel or otherwise, is incapable of identification from the written or printed information given and has been in no way concealed after the receipt of such information,

on conviction, be punished with fine which may extend to fifty rupees in respect of each such article of property so in his possession or offered to him.

Melting, etc., of property referred to in section 104.

105. Whoever having received such information as is referred to in section 104 alters, melts, defaces or puts away or causes or suffers to be altered, melted, defaced or put away, without the previous permission of the police, any such property as is referred to in that section shall, on proof that the same was stolen property within the meaning of section 410 of the Indian Penal Code or property in respect of which any offence punishable under section 417, section 418, section 419 or section 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years or with fine, or with both. 45 of 1860.

106. Whoever takes from any child, not appearing to be above the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent, advanced or delivered to such child or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall, on conviction, be punished with fine which may extend to one hundred rupees. Taking pledge from child.

107. Whoever, being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers drunkenness or other disorderly behaviour or any gambling whatsoever, in such place, shall, on conviction, be punished with fine which may extend to one hundred rupees. Suffering disorderly conduct at places of public amusement, etc.

108. (*1*) Whoever by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game or in taking part in the stakes or wagers, or in betting on the sides or hands of the players, or in wagering on the event of any game, sports, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed to have committed the offence of cheating within the meaning of section 415 of the Indian Penal Code, and be liable to punishment accordingly. Cheating at games and gambling in street.

45 of 1860

(*2*) Whoever assembles with others, or joins any assembly, in a street assembled for the purpose of gambling or wagering shall, on conviction, be punished with fine which may extend to fifty rupees or may be released after a due admonition.

109. Whoever contravenes, disobeys, opposes, or fails to conform to an order under section 27 requiring him to vacate any premises, shall, on conviction be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both. Penalty for disobedience to order under section 27.

110. Save as provided in section 112, whoever contravenes, or abets the contravention of, any regulation made under section 28 or any of the conditions of a licence issued under such regulation shall, on conviction, be punished— Penalty for contravening regulations, etc., under section 28.

(*a*) if the regulation was made under clause (*b*) of sub-section (*1*) of section 28 providing for the prohibition of the sale, or exposure for sale, of any goods on any street or portion thereof so as to cause obstruction to traffic or inconvenience to the public—

(*i*) for the first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both, and

(*ii*) for any subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees;

(*b*) if the regulation was made under clause (*d*), (*h*), (*i*) or (*j*), sub-clause (*i*) or (*ii*) of clause (*s*) or clause (*u*) of sub-section (*1*) of section 28, with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, or with both;

(c) if the regulation was made under clause (o) or (p) of sub-section (1) of section 28, with fine which may extend to two hundred rupees; and

(d) if the regulation was made under any clause of sub-section (1) of section 28 and for the contravention of which no penalty is provided under clause (a), (b) or (c) of this section, with fine which may extend to fifty rupees.

Liability of licensee of place of public amusement or entertainment for acts of servants.

111. The holder of a licence granted under this Act in respect of a place of public amusement or public entertainment shall be responsible, as well as the actual offender for any offence under section 110 committed by his servant or other agent acting with his express or implied permission on his behalf as if he himself had committed the same, unless he establishes that all due and reasonable precautions were taken by him to prevent the commission of such offence.

Penalty for not obtaining licence in respect of place of public entertainment or certificate of registration in respect of eating house or for not renewing such licence or certificate within prescribed period.

112. (1) Whoever fails to obtain a licence under this Act in respect of a place of public entertainment or a certificate of registration thereunder in respect of any eating house, or to renew the licence or the certificate, as the case may be, within the prescribed period shall, on conviction, be punished with fine which may extend to fifty rupees.

(2) Any court trying any such offence shall in addition direct that the person keeping the place of public entertainment, or the eating house, in respect of which the offence has been committed shall close such place, or eating house until he obtains a licence or fresh licence, or a certificate of registration or fresh certificate of registration, as the case may be, in respect thereof and thereupon such person shall forthwith comply with such direction.

(3) If the person fails to comply with any such direction, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

(4) Without prejudice to any action taken under sub-section (3), on the failure of such person to comply with the direction of the court, any police officer authorised by the Commissioner of Police, by an order in writing, may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the court's direction.

Penalties for contravention of orders, etc., under sections 29, 30, 31, 32, 33 and 34.

113. (1) Whoever contravenes, disobeys, opposes or fails to conform to any order given by a police officer under section 29 shall, on conviction, be punished with fine which may extend to two hundred rupees.

(2) Whoever contravenes a notification or an order made under section 30, section 32, section 33 or section 34 or abets the contravention thereof shall, on conviction, be punished—

(a) if the said notification or order was made under sub-section (1) of section 30 or under section 33 or section 34, with imprisonment for a term which shall not be less than four months but which may extend to one year, and shall also be liable to fine;

Provided that the court may, for adequate and sufficient reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months;

(b) if the said order was made under sub-section (2) of section 30, with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both;

(c) if the said notification was made under sub-section (3) of section 30, with fine which may extend to one hundred rupees; or

(d) if the said order was made under section 32, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) Whoever opposes or fails to conform to any direction given by a police officer under section 31, shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for contravention of regulations, etc., made under sections 35, 36 and 37.

114. Whoever contravenes, or abets the contravention of, any regulation, notice or order made under section 35, section 36 or section 37 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Penalty for contravention of directions under sections 46, 47 or 48.

115. Whoever opposes or fails to conform to any direction issued under section 46, section 47 or section 48 or abets the opposition to, or the failure to conform to, any such direction shall, on conviction, be punished with imprisonment which shall not be less than four months but which may extend to one year and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months.

Penalty for entering without permission area from which a person is directed to remove himself or overstaying when permitted to return temporarily.

116. Without prejudice to the power to arrest and remove a person in the circumstances, and in the manner provided in section 53, any person who—

(a) in contravention of a direction issued to him under section 46, section 47 or section 48 enters or returns without permission to Delhi, or any part thereof, as the case may be, from which he was directed to remove himself; or

(b) enters or returns to Delhi or any part thereof with permission granted under sub-section (1) of section 54, but fails, contrary to the provisions thereof, to remove himself outside such area at the expiry of the temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter, without fresh permission,

shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to two years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

Penalty for contravention of orders under section 57.

117. Whoever contravenes any order made under section 57 shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for opposing or not complying with direction given under clause (*b*) of sub-section (1) of section 59.

118. Whoever opposes or fails forthwith to comply with any reasonable requisition made by a police officer under clause (*b*) of sub-section (*1*) of section 59, or abets the opposition thereto or failure to comply therewith, shall, on conviction, be punished with imprisonment for a term which shall not be less than four months but which may extend to one year and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months.

Penalty for contravening directions under section 65.

119. Whoever opposes or fails to conform to any direction given by any police officer under section 65 or abets the opposition or failure to conform to such direction shall, on conviction, be punished with fine which may extend to fifty rupees.

Dangerous performances.

120. (*1*) No person shall without the previous permission of the Commissioner of Police and except in accordance with any conditions subject to which such permission is granted, hold or give in any place which is likely to cause an assembly of persons, any performance in which or during which he buries himself under ground or seals himself in any room or receptacle or other thing, in such manner as to prevent all access of air to him and for such time as would ordinarily result in death by suffocation.

(*2*) If any person contravenes or attempts to contravene the provisions of sub-section (*1*), he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under this section shall be cognizable. 2 of 1974

Neglect or refusal to serve as special police officer.

121. (*1*) Any person, who having been appointed to be a special police officer under section 17 shall without sufficient cause neglect or refuse to serve as such or to obey any lawful order or direction that may be given to him for the performance of his duties as such special police officer, shall, on conviction, be punished with fine which may extend to fifty rupees.

(*2*) Such punishment shall automatically cancel the certificate of appointment of such a special police officer.

Penalty for making false statement, etc., and for misconduct of police officers.

122. (*a*) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a police officer, or

(*b*) any police officer who—

(*i*) is guilty of cowardice, or

(*ii*) being a police officer of subordinate rank, resigns his office or withdraws himself from duties thereof in contravention of section 25, or

(*iii*) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he is bound to observe or obey, or

(*iv*) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force,

shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Explanation.—A police Officer who being absent on leave fails without reasonable cause to report himself for duty on the expiration of such leave shall, for the purpose of sub-clause (*ii*) of clause (*b*), be deemed to withdraw himself from the duties of his office within the meaning of section 25.

Penalty for failure to deliver up certificate of appointment or other article.

123. Any police officer, who wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (*1*) of section 26 shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Vexatious entry, search, arrest, etc., by police officer.

124. Any police officer who—

(*a*) without lawful authority or reasonable cause enters or searches, or causes to be entered or searched, any building, vessel, tent or place; or

(*b*) vexatiously and unnecessarily seizes the property of any person; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person; or

(*d*) offers any unnecessary personal violence to any person in his custody; or

(*e*) holds out any threat or promise not warranted by law,

shall, for every such offence, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for vexatious delay in forwarding a person arrested.

125. Any police officer who vexatiously and unnecessarily delays the forwarding of any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for unauthorised use of police uniforms.

126. If any person not being a member of the Delhi police wears, without the permission of an officer authorised by the Administrator in this behalf by general or special order, the uniform of the Delhi police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall, on conviction, be punished with fine which may extend to two hundred rupees.

Power to make regulations regarding carrying weapons without authority.

127. (*1*) The Commissioner of Police may, by notification in the Official Gazette, make regulations to provide that no person, other than a member of the armed forces of the Union acting as such or a police officer, shall go armed with any sword, spear, bludgeon, gun or other offensive weapon or with any explosive or corrosive substance in any street or public place unless so authorised by such authority as may be specified in such regulations.

(*2*) Any regulation made under sub-section (*1*) may provide that any person who goes armed in contravention of such regulation shall be liable to be disarmed by any police officer and the weapon or substance so seized shall be forfeited to the Government, unless redeemed within two months by payment of such fine, not exceeding five hundred rupees, as the Commissioner of Police imposes.

Prosecution for certain offences against this Act to be in the discretion of Delhi police.

128. It shall not, except in obedience to a rule, regulation or order made by the Administrator or by the Commissioner of Police, be incumbent on the Delhi police to prosecute for an offence punishable under section 97, section 104, sub-section (*1*) of section 113, section 114, section 119 or section 121 when such offence has not occasioned serious mischief and has been promptly desisted from on a warning being given.

Summary disposal of certain cases.

129. (*1*) A court taking cognizance of an offence punishable under section 97, or under clause (*a*), (*b*) or (*c*) of section 110 may state upon the summons to be served on the accused person that he may, by a specified date, prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the court such sum not exceeding one hundred rupees in the case of an offence punishable under section 97 and in any other case rupees fifty, as the court may specify.

(*2*) Where an accused person pleads guilty and remits the sum specified in the summons, under sub-section (*1*), no further proceedings in respect of the offence shall be taken against him.

Prosecution for offences under other enactments not affected.

130. Subject to the provisions contained in section 300 of the Code of Criminal Procedure, 1973, nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other law for anything made punishable by this Act or from being prosecuted and punished under this Act for anything made punishable under any other law. 2 of 1974.

Offences by companies.

131. (*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 provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate, and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER XI

MISCELLANEOUS

Disposal of fees, rewards, etc.

132. All fees paid for licences or permissions granted under this Act, and all sums paid for the service of processes by police officers and all rewards, forfeitures and penalties or shares thereof, which are by law payable to police officers as informers shall, save in so far as any such fees or sums belong under the provisions of any enactment for the time being in force to any local authority be credited to the Government:

Provided that with the sanction of the Administrator or under any rule made by the Administrator in that behalf, the whole or any portion of any such reward, forfeiture or penalty may for special services, be paid to a police officer or be divided amongst two or more police officers.

Method of proving orders and notifications.

133. Any order or notification published or issued by the Administrator or by the Commissioner of Police or any other police officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by the Administrator or Commissioner of Police or other police officer, as the case may be, and by him certified to be a true copy of an original published or issued according to the provisions of this Act applicable thereto.

Rules, regulations or orders not invalidated by defect of form or irregularity in procedure.

134. No rule, regulation, order, direction, adjudication, inquiry or notification made or published and no act done under any provision of this Act or any rule or regulation made under this Act, or in substantial conformity with the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or any irregularity of procedure.

Presumption in prosecutions for contravention of order made under section 46, 47 or 48.

135. Notwithstanding anything contained in any law for the time being in force, in a prosecution for an offence for the contravention of an order made under section 46, section 47 or section 48 on the production of an authentic copy of the order, it shall, until the contrary is proved by the accused, be presumed—

(*a*) that the order was made by the authority competent under this Act to make it;

(*b*) that the authority making the order was satisfied that the grounds on, or the purpose for, which it was made existed, and that it was necessary to make the same; and

(*c*) that the order was otherwise valid and in conformity with the provisions of this Act.

Officers holding charges of, or succeeding to, vacancies competent to exercise powers.

136. Whenever in consequence of the office of the Commissioner of Police, Additional Commissioner of Police or any other police officer becoming vacant, any officer holds charge of the post of such Commissioner of Police, Additional Commissioner of Police or other police officer or succeeds, either temporarily or permanently, to that post, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by or under this Act on the Commissioner of Police or on such Additional Commissioner of Police or other police officer, as the case may be.

Forfeiture of bond entered into by person under sub-section (1) of section 54.

137. If any person permitted to enter or return to the area from which he was directed to remove himself under sub-section (1) of section 54, fails to observe any condition imposed under that sub-section or by the bond executed by him thereunder, his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the court why such penalty should not be paid.

No police officer to be liable to penalty or damage for act done in good faith in pursuance of duty.

138. No police officer shall be liable to any penalty or to payment of any damages on account of an act done in good faith in pursuance of or purported to be done in pursuance of any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule, regulation, order or direction made or given thereunder.

139. No public servant or person duly appointed or authorised shall be liable to any penalty or to payment of any damages for giving effect in good faith to—

No public servant liable as aforesaid for giving effect in good faith to any rule, regulation, order or direction issued with apparent authority.

(a) any order or direction issued with apparent authority by the Administrator or by a person empowered in that behalf under this Act; or

(b) any rule or regulation made under this Act.

45 of 1860.

Explanation.—In this section, the expression "public servant" has the meaning assigned to it in section 21 of the Indian Penal Code.

140. (1) In any case of alleged offence by a police officer or other person, or of a wrong alleged to have been done by such police officer or other person, by any act done under colour of duty or authority or in excess of any such duty or authority, or wherein it shall appear to the court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained and if entertained shall be dismissed if it is instituted, more than three months after the date of the act complained of:

Bar to suits and prosecutions.

Provided that any such prosecution against a police officer or other person may be entertained by the court, if instituted with the previous sanction of the Administrator, within one year from the date of the offence.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall give to the alleged wrongdoer not less than one month's notice of the intended suit with sufficient description of the wrong complained of, and if no such notice has been given before the institution of the suit, it shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state what tender of amends, if any, has been made by the defendant and a copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

141. (1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the competent authority.

Licences and written permissions to specify conditions, etc., and to be signed.

(2) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority if any of its conditions or restrictions are infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence with respect to any matter to which such licence or permission relates.

(3) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the persons to whom the same was granted shall, for all purposes of this

Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

(4) Every person to whom any such licence or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a police officer.

Explanation.—For the purposes of this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion or, as the case may be, conviction of, the person to whom such licence or written permission has been granted.

Public notices how to be given.

142. Any notification which may be publicly promulgated, public notice required to be given, order required to be notified publicly or proclamation required to be issued under any of the provisions of this Act shall be in writing, under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums or by advertising, the same in such local newspapers in Hindi, Urdu and English, as the competent authority may deem fit, or by any two or more of these means and by any other means it may think suitable.

Consent, etc., of a competent authority may be proved by writing under its signature.

143. Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the competent authority, a written document signed by the competent authority, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

Signature on notices, etc., may be stamped.

144. Every licence, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Act or by any rule or regulation made thereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

Persons interested may seek to annul, reverse or alter any rule or order.

145. (1) In the case of any rule or order made by the Administrator under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent for any person interested to apply to the Administrator by a memorial to annul, reverse, or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

(2) After such an application as aforesaid and the rejection thereof wholly or in part or after the lapse of four months without an answer to such application or a decision thereon published by the Administrator, it shall be competent for the person interested and deeming the rule or order to be contrary to law to institute a suit in the principal civil court of original jurisdiction against the Administrator for a declaration that the rule or order is unlawful either wholly or in part.

(3) Where in any suit instituted under sub-section (2) or on appeal therefrom, the court adjudges a rule or order to be unlawful, the rule or order shall be annulled or so altered as to make it conformable to law.

Powers of Commissioner of Police under other Acts.

146. (1) The Commissioner of Police shall exercise all powers and discharge all functions which may be exercised or discharged by a District Magistrate under the Acts mentioned in Schedule I including the rules made thereunder.

(2) The Commissioner of Police may authorise any Additional Commissioner of Police, Deputy Commissioner of Police or Additional Deputy Commissioner of Police to exercise any of the powers or discharge any of the functions of the Commissioner of Police mentioned in sub-section (1) in accordance with the general or special orders of the Administrator.

22 of 1867.

(3) The powers and functions of a District Magistrate under the Sarais Act, 1867, shall be exercised and discharged by the Administrator or such officer as the Administrator may, by notification in the Official Gazette, authorise in this behalf.

Power to make rules.

147. (1) The Administrator may 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) recruitment to, and the pay, allowances and all other conditions of service of the members of, the Delhi police under clause (b) of section 5;

(b) the manner of publication, under sub-section (2) of section 17, by the Commissioner of Police, of the names of special police officers appointed under that section;

(c) awarding of any of the punishments referred to in sub-section (1) or sub-section (2) of section 21 to any police officer of subordinate rank;

(d) procedure for awarding punishments under section 22;

(e) form of Discharge Certificate under sub-section (8) of section 25;

(f) determination of the cost of employing additional police under sub-section (2) of section 38;

(g) manner of taking measurements and photographs under section 55 of a person against whom an order has been made under section 46, section 47 or section 48;

(h) manner of constituting Defence Societies under sub-section (1) of section 58;

(i) form of receipt to be given in respect of any article detained under section 62;

(j) the authority to whose satisfaction claims are to be established under sub-section (2) of section 69 and the form and manner in which claims may be made under that sub-section, the procedure for dealing with such claims and all other matters connected therewith under sub-section (3) of that section;

(k) payment to any police officer or division among two or more police officers the whole or any portion of any reward, forfeiture or penalty, under the proviso to section 132;

(*l*) any other matter which has to be, or may be, prescribed, or provided for by rules, under this Act.

Notification of rules and regulations in the Official Gazette and laying of rules and regulations.

148. (*1*) Every rule and regulation made under this Act shall be made by notification in the Official Gazette.

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

(*3*) Every rule and regulation made under this Act shall also be laid before the Metropolitan Council of Delhi.

Cesser of operation of certain enactments and savings.

149. (*1*) On the commencement of this Act the enactments specified in Schedule II shall cease to be in force in Delhi:

Provided that—

(*i*) all rules and standing orders made (including the Punjab Police Rules, as in force in Delhi), appointments made, powers conferred, orders made or passed, directions and certificates issued, consent, permit, permission or licence given, summons or warrants issued or served, persons arrested or detained or discharged on bail or bond, search warrants issued, bonds forfeited and penalties incurred under any such enactment shall, in so far as they are consistent with this Act, be deemed to have been respectively made, conferred, passed, given, issued, served, arrested, detained, discharged, forfeited or incurred under this Act;

(*ii*) all references in any enactment to any of the provisions of the enactments so ceasing to be in force shall, in relation to Delhi, be construed as references to the corresponding provisions of this Act.

(*2*) The cesser of operation under sub-section (*1*) of an enactment specified in Schedule II shall not affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done thereunder before the commencement of this Act;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred thereunder before such commencement;

(c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act thereunder before such commencement;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment; or

(*e*) any legal proceeding thereunder pending in any court or before any officer immediately before such commencement or anything done or suffered to be done in the course of such proceedings,

and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall, save as otherwise expressly provided in section 150 be instituted, continued or disposed of, as the case may be, as if this Act had not been enacted.

150. Without prejudice to the provisions contained in section 149,— Police force functioning in Delhi immediately before the commencement of this Act to be deemed to be police force constituted under this Act.

(*a*) the police force functioning in Delhi immediately before the commencement of this Act (hereafter in this section referred to as the existing police force) shall, on such commencement, be deemed to be police force constituted under this Act and every member of the existing police force holding the office mentioned in column (1) of Schedule III, immediately before such commencement, shall be deemed to be appointed, on such commencement, to the office mentioned in the corresponding entry in column (2) of that Schedule;

(*b*) all proceedings (including proceedings by way of investigations) pending before any police officer of the existing police force, immediately before the commencement of this Act shall on such commencement be deemed to be proceedings pending before him in his capacity as the holder of the office to which he is deemed to be appointed under clause (*a*) and shall be dealt with accordingly;

(*c*) where any power or function which may be exercised or discharged under any law by a District Magistrate or Executive Magistrate immediately before the commencement of this Act has been conferred on the Commissioner of Police or any other police officer by or under this Act, all proceedings in relation to or arising from the exercise of such power or the discharge of such function pending immediately before such conferment before the District Magistrate, or the Executive Magistrate, as the case may be, shall, on the conferment of such power or function on the Commissioner of Police or other police officer stand transferred to the Commissioner of Police or other police officer, as the case may be, and the officer to whom such proceedings stand so transferred shall either proceed *de novo* or from the stage of such transfer.

151. (*1*) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the enactments mentioned in Schedule II, the Central Government may, by notification in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Act.

(*2*) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

Ord. 2 of 1978.

152. (*1*) The Delhi Police Ordinance, 1978 is hereby repealed. Repeal and saving.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE I

[*See* section 146(*1*)]

PART I

CENTRAL ACTS

1. The Press and Registration of Books Act, 1867.
2. The Indian Explosives Act, 1884.
3. The Indian Lunacy Act, 1912.
4. The Poisons Act, 1919.
5. The Police (Incitement to Disaffection) Act, 1922.
6. The Cinematograph Act, 1952.
7. The Suppression of Immoral Traffic in Women and Girls Act, 1956.
8. The Arms Act, 1959.
9. The Prevention of Cruelty to Animals Act, 1960.

PART II

DELHI ACT AND ACTS EXTENDED TO DELHI

1. The Madras Restriction of Habitual Offenders Act, 1948, as in force in Delhi.
2. The Punjab Security of State Act, 1953, as in force in Delhi.
3. The Madras Dramatic Performances Act, 1954, as in force in Delhi.
4. The Delhi Public Gambling Act, 1955.
5. The Bombay Prevention of Begging Act, 1959, as in force in Delhi.

SCHEDULE II

(*See* section 149)

Year	No.	Short title
1861	V	The Police Act, 1861.
1872	IV	Section 40 of the Punjab Laws Act, 1872, as in force in Delhi.
1951	XXII	The provisions of the Bombay Police Act, 1951, as in force in Delhi.

SCHEDULE III

(*See* section 150)

Designation of officer in the Delhi police	Posts to which the officers of the Delhi police shall be deemed to be appointed
(1)	(2)
1. Inspector General of Police.	Commissioner of Police.
2. Deputy Inspector General of Police.	Additional Commissioner of Police.
3. Superintendent of Police.	Deputy Commissioner of Police.
4. Assistant Inspector General of Police.	Deputy Commissioner of Police.
5. Additional Superintendent of Police.	Additional Deputy Commissioner of Police.
6. Assistant Superintendent of Police.	Assistant Commissioner of Police.
7. Deputy Superintendent of Police.	Assistant Commissioner of Police.

THE APPROPRIATION (No. 4) ACT, 1978

No. 35 OF 1978

[30*th August*, 1978.]

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 1978-79.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (No. 4) Act, 1978.

Issue of Rs. 551,15, 77,000 out of the Consolidated Fund of India for the year 1978-79.

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 five hundred and fifty-one crores, fifteen lakhs and seventy-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1978-79, in respect of the services specified in column 2 of the Schedule.

Appropriation.

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

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
12	Foreign Trade and Export Production . . .	Revenue	40,00,00,000	14,000	40,00,14,000
		Capital	1,50,00,000	..	1,50,00,000
18	Capital Outlay on Posts and Telegraphs . . .	Capital	2,000	..	2,000
29	Power Development .	Capital	8,05,00,000	..	8,05,00,000
31	Ministry of External Affairs	Revenue	1,97,04,000	..	1,97,04,000
41	Transfers to State and Union Territory Governments .	Capital	..	430,00,00,000	430,00,00,000
42	Other Expenditure of the Ministry of Finance .	Capital	33,94,19,000	..	33,94,19,000
59	Industries . . .	Revenue	1,46,63,000	..	1,46,63,000
		Capital	1,68,80,000	..	1,68,80,000
60	Village and Small Industries	Revenue	15,00,00,000	..	15,00,00,000
61	Textiles, Handloom and Handicrafts . .	Revenue	40,15,000	..	40,15,300
		Capital	7,66,00,000	2,20,00,000	9,86,00,000
63	Information and Publicity .	Revenue	3,50,000	..	3,50,000
71	Chemicals and Fertilizers Industries . . .	Revenue	3,00,000	..	3,00,000
		Capital	1,000	..	1,000
78	Road and Inland Water Transport . . .	Capital	2,00,00,000	..	2,00,00,000
79	Department of Steel . .	Revenue	3,000	..	3,000
		Capital	5,21,26,000	..	5,21,26,000
	TOTAL . .		118,95,63,000	432,20,14,000	551,15,77,000

Rep. by Act 19 of 1988, s. 29 & Sch. I

THE TOBACCO BOARD (AMENDMENT) ACT, 1978.

No. 36 OF 1978

[30th *August*, 1978.]

An Act to amend the Tobacco Board Act, 1975.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Tobacco Board (Amendment) Act, 1978.

Amendment of section 4.

2. In section 4 of the Tobacco Board Act, 1975 (hereinafter referred to as the principal Act),— 4 of 1975

(*a*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The head office of the Board shall be at Guntur in the State of Andhra Pradesh and the Board may, with the previous approval of the Central Government, establish offices or agencies at other places in or outside India.";

(*b*) in sub-section (*4*),—

(*A*) in clause (*c*),—

(*i*) for the word "seven", the word "eight" shall be substituted;

(*ii*) in sub-clause (*vi*), the word "and" occurring at the end shall be omitted;

(*iii*) after sub-clause (*vi*), the following sub-clause shall be inserted, namely:—

"(*via*) the Government of Gujarat; and";

(*B*) in clause (*d*), for the words "other than the States of Andhra Pradesh and Karnataka", the words "other than the States of Andhra Pradesh, Gujarat and Karnataka" shall be substituted.

REPEALED

3. In section 8 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:— Amendment of section 8.

"(cc) establishment by the Board of auction platforms, with the previous approval of the Central Government, for the sale of virginia tobacco by registered growers or curers, and functioning of the Board as an auctioneer at auction platforms established by or registered with it subject to such conditions as may be specified by the Central Government;".

4. In section 13 of the principal Act, the words "or established by the Board under this Act" shall be inserted at the end. Amendment of section 13.

5. After section 14 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 14A.

"14A. (1) Where virginia tobacco is sold at any auction platform established by the Board under this Act, it shall be competent for the Board or for any officer of the Board authorised by it in this behalf to levy fees, for the services rendered by the Board in relation to such sale, at such rate not exceeding two per cent. of the value of such tobacco as the Central Government may, from time to time, by notification in the Official Gazette, specify. Power to levy fees.

(2) The fees levied under sub-section (1) shall be collected by the Board or such officer, equally from the seller of the virginia tobacco and the purchaser of such tobacco, in such manner as may be prescribed.".

6. In section 32 of the principal Act, in sub-section (2), after clause (h), the following clause shall be inserted, namely:— Amendment of section 32.

"(hh) the manner of collection of fees under sub-section (2) of section 14A;".

7. In the Tobacco Cess Act, 1975,— Amendment of Act 26 of 1975.

(a) in section 2, in sub-section (1),—

(i) clauses (a) and (b) shall be re-lettered as clauses (b) and (c) respectively and before clause (b) as so re-lettered, the following clause shall be inserted, namely:—

'(a) "auction platform" means an auction platform registered with the Board in accordance with the rules made under the Tobacco Board Act, 1975 or established by the Board under that Act;'; 4 of 1975.

(ii) clause (c) shall be omitted;

(b) in section 3, for the words "a registered auction platform" wherever they occur, the words "an auction platform" shall be substituted.

Rep. by Act 19 of 1988, s. 28 Sch. I

THE PRESS COUNCIL ACT, 1978

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and extent.
2. Definitions.
3. Rule of construction respecting enactments not extending to the State of Jammu and Kashmir or Sikkim.

CHAPTER II

ESTABLISHMENT OF THE PRESS COUNCIL

4. Incorporation of the Council.
5. Composition of the Council.
6. Term of office and retirement of members.
7. Conditions of service of members.
8. Committees of the Council.
9. Meetings of the Council and committees.
10. Vacancies among members or defect in the constitution not to invalidate acts and proceedings of the Council.
11. Staff of the Council.
12. Authentication of orders and other instruments of the Council.

CHAPTER III

POWERS AND FUNCTIONS OF THE COUNCIL

13. Objects and functions of the Council.
14. Power to censure.
15. General powers of the Council.
16. Levy of fees.
17. Payments to the Council.
18. Fund of the Council.
19. Budget.
20. Annual report.
21. Interim reports.
22. Accounts and audit.

CHAPTER IV

MISCELLANEOUS

23. Protection of action taken in good faith.
24. Members, etc., to be public servants.
25. Power to make rules.
26. Power to make regulations.
27. Amendment of Act 25 of 1867.

REPEALED

THE PRESS COUNCIL ACT, 1978

No. 37 OF 1978

[7th September, 1978.]

An Act to establish a Press Council for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and extent.

1. (1) This Act may be called the Press Council Act, 1978.

(2) It extends to the whole of India.

Definitions.

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

(a) "Chairman" means the Chairman of the Council;

(b) "Council" means the Press Council of India established under section 4;

(c) "member" means a member of the Council and includes its Chairman;

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

(e) the expressions "editor" and "newspaper" have the meanings respectively assigned to them in the Press and Registration of Books Act, 1867, and the expression "working journalist" has the meaning assigned to it in the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

25 of 1867.

45 of 1955.

Rule of construction respecting enactments not extending to the State of Jammu and Kashmir or Sikkim.

3. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir or Sikkim shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

REPEALED

CHAPTER II

ESTABLISHMENT OF THE PRESS COUNCIL

Incorporation of the Council.

4. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Council by the name of the Press Council of India.

(*2*) The said Council shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

Composition of the Council.

5. (*1*) The Council shall consist of a Chairman and twenty-eight other members.

(*2*) The Chairman shall be a person nominated by a Committee consisting of the Chairman of the Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha) and a person elected by the members of the Council under sub-section (*6*) and the nomination so made shall take effect from the date on which it is notified by the Central Government in the Official Gazette.

(*3*) Of the other members—

(*a*) thirteen shall be nominated in accordance with such procedure as may be prescribed from among the working journalists, of whom six shall be editors of newspapers and the remaining seven shall be working journalists other than editors; so, however, that the number of such editors and working journalists other than editors in relation to newspapers published in Indian languages shall be not less than three and four respectively;

(*b*) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers, so, however, that there shall be two representatives from each of the categories of big newspapers, medium newspapers and small newspapers;

(*c*) one shall be nominated in accordance with such procedure as may be prescribed from among persons who manage news agencies;

(*d*) three shall be persons having special knowledge or practical experience in respect of education and science, law, and literature and culture of whom respectively one shall be nominated by the University Grants Commission, one by the Bar Council of India and one by the Sahitya Academy;

(*e*) five shall be members of Parliament of whom three shall be nominated by the Speaker from among the members of the House of the People (Lok Sabha) and two shall be nominated by the Chairman of the Council of States (Rajya Sabha) from among its members:

Provided that no working journalist who owns, or carries on the business of management of, any newspaper shall be eligible for nomination under clause (*a*):

Provided further that the nominations under clause (*a*) and clause (*b*) shall be so made that among the persons nominated there is not more than one person interested in any newspaper or group of newspapers under the same control or management.

REPEALED

Explanation.—For the purposes of clause (*b*), a "newspaper" shall be deemed to be—

(*i*) "big newspaper" if the total circulation of all its editions exceeds fifty thousand copies for each issue;

(*ii*) "medium newspaper" if the total circulation of all its editions exceeds fifteen thousand copies but does not exceed fifty thousand copies for each issue;

(iii) "small newspaper" if the total circulation of all its editions does not exceed fifteen thousand copies for each issue.

(*4*) Before making any nomination under clause (*a*), clause (*b*) or clause (*c*) of sub-section (*3*), the Central Government in the case of the first Council and the retiring Chairman of the previous Council in the case of any subsequent Council shall, in the prescribed manner, invite panels of names comprising twice the number of members to be nominated from such associations of persons of the categories referred to in the said clause (*a*), clause (*b*) or clause (c) as may be notified in this behalf by the Central Government in the case of the first Council and by the Council itself in the case of subsequent Councils:

Provided that where there is no association of persons of the category referred to in the said clause (c), the panels of names shall be invited from such news agencies as may be notified as aforesaid.

(*5*) The Central Government shall notify the names of persons nominated as members under sub-section (*3*) in the Official Gazette and every such nomination shall take effect from the date on which it is notified.

(*6*) The members of the Council notified under sub-section (*5*) shall elect from among themselves in accordance with such procedure as may be prescribed, a person to be a member of the Committee referred to in sub-section (*2*) and a meeting of the members of the Council for the purpose of such election shall be presided over by a person chosen from among themselves.

Term of office and retirement of members.

6. (*1*) Save as otherwise provided in this section, the Chairman and other members shall hold office for a period of three years:

Provided that the Chairman shall continue to hold such office until the Council is reconstituted in accordance with the provisions of section 5 or for a period of six months whichever is earlier.

(*2*) Where a person nominated as a member under clause (*a*), clause (*b*) or clause (*c*) of sub-section (*3*) of section 5 is censured under the provisions of sub-section (*1*) of section 14, he shall cease to be a member of the Council.

(*3*) The term of office of a member nominated under clause (*e*) of sub-section (*3*) of section 5 shall come to an end as soon as he ceases to be a member of the House from which he was nominated.

(*4*) A member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive meetings of the Council.

(5) The Chairman may resign his office by giving notice in writing to the Central Government, and any other member may resign his office by giving notice in writing to the Chairman, and upon such resignation being accepted by the Central Government, or as the case may be, the Chairman, the Chairman or the member shall be deemed to have vacated his office.

(6) Any vacancy arising under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) or otherwise shall be filled, as soon as may be, by nomination in the same manner in which the member vacating office was nominated and the member so nominated shall hold office for the remaining period in which the member in whose place he is nominated would have held office.

(7) A retiring member shall be eligible for re-nomination for not more than one term.

Conditions of service of members.

7. (1) The Chairman shall be a whole-time officer and shall be paid such salary as the Central Government may think fit; and the other members shall receive such allowances or fees for attending the meetings of the Council, as may be prescribed.

(2) Subject to the provisions of sub-section (1), the conditions of service of members shall be such as may be prescribed.

(3) It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Committees of the Council.

8. (1) For the purpose of performing its functions under this Act, the Council may constitute from among its members such committees for general or special purposes as it may deem necessary and every committee so constituted shall perform such functions as are assigned to it by the Council.

(2) The Council shall have the power to co-opt as members of any committee constituted under sub-section (1) such other number of persons, not being members of the Council, as it thinks fit.

(3) Any such member shall have the right to attend any meeting of the Committee on which he is so co-opted and to take part in the discussions thereat, but shall not have the right to vote and shall not be a member for any other purpose.

Meetings of the Council and committees.

9. The Council or any committee thereof shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Act.

Vacancies among members or defect in the constitution not to invalidate acts and proceedings of the Council.

10. No act or proceeding of the Council shall be deemed to be invalid by reason merely of the existence of any vacancy in, or any defect in the constitution of, the Council.

REPEALED

Staff of the Council.

11. (1) Subject to such rules as may be made by the Central Government in this behalf, the Council may appoint a Secretary and such other employees as it may think necessary for the efficient performance of its functions under this Act.

(2) The terms and conditions of service of the employees shall be such as may be determined by regulations.

Authentication of orders and other instruments of the Council.

12. All orders and decisions of the Council shall be authenticated by the signature of the Chairman or any other member authorised by the Council in this behalf and other instruments issued by the Council shall be authenticated by the signature of the Secretary or any other officer of the Council authorised in like manner in this behalf.

CHAPTER III

POWERS AND FUNCTIONS OF THE COUNCIL

Objects and functions of the Council.

13. (1) The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

(2) The Council may, in furtherance of its objects, perform the following functions, namely:—

(a) to help newspapers and news agencies to maintain their independence;

(b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;

(c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;

(d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;

(e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;

(f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by any individual, association of persons or any other organisation:

Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it thinks fit;

(g) to undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

Explanation.—For the purposes of this clause, the expression "foreign State" has the meaning assigned to it in section 87A of the Code of Civil Procedure, 1908;

5 of 1908.

(h) to promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies:

Provided that nothing in this clause shall be deemed to confer on the Council any functions in regard to disputes to which the Industrial Disputes Act, 1947, applies; 14 of 1947

(i) to concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press;

(j) to undertake such studies as may be entrusted to the Council and to express its opinion in regard to any matter referred to it by the Central Government;

(k) to do such other acts as may be incidental or conducive to the discharge of the above functions.

Power to censure.

14. (1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in the public interest so to do, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(4) The decision of the Council under sub-section (1), or sub-section (2), as the case may be, shall be final and shall not be questioned in any court of law.

General powers of the Council.

15. (1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 19

(a) summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter, which may be prescribed.

(2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist.

(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. 45 of 1860.

(4) The Council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this Act, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including Government.

Levy of fees.

16. (1) The Council may, for the purpose of performing its functions under this Act, levy such fees, at such rates and in such manner, as may be prescribed, from registered newspapers and news agencies and different rates may be prescribed for different newspapers having regard to their circulation and other matters.

(2) Any fees payable to the Council under sub-section (1) may be recovered as an arrear of land revenue.

Payments to the Council.

17. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act.

Fund of the Council.

18. (1) The Council shall have its own fund; and the fees collected by it, all such sums as may, from time to time, be paid to it by the Central Government and all grants and advances made to it by any other authority or person shall be credited to the Fund and all payments by the Council shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Council.

(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.

Budget.

19. The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Annual report.

20. The Council shall prepare once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year, and giving an account of the

standards of newspapers and news agencies and factors affecting them, and copies thereof, together with the statement of accounts audited in the manner prescribed under section 22 shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

Interim reports.

21. Without prejudice to the provisions of section 20, the Council may prepare at any time during the course of a year, a report giving a summary of such of its activities during the year as it considers to be of public importance and copies thereof shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

Accounts and audit.

22. The accounts of the Council shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

CHAPTER IV

MISCELLANEOUS

Protection of action taken in good faith.

23. (1) No suit or other legal proceeding shall lie against the Council or any member thereof or any person acting under the direction of the Council in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against any newspaper in respect of the publication of any matter therein under the authority of the Council.

Members, etc., to be public servants.

24. Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Power to make rules.

25. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that when the Council has been established, no such rules shall be made without consulting the Council.

(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 procedure for nomination of members of the Council under clauses (a), (b) and (c) of sub-section (3) of section 5;

(b) the manner in which panels of names may be invited under sub-section (4) of section 5;

(c) the procedure for election of a member of the Committee referred to in sub-section (2) of section 5 under sub-section (6) of that section;

(d) the allowances or fees to be paid to the members of the Council for attending the meetings of the Council, and other conditions of service of such members under sub-sections (1) and (2) of section 7;

(e) the appointment of the Secretary and other employees of the Council under section 11;

(*f*) the matters referred to in clause (*f*) of sub-section (*1*) of section 15;

(*g*) the rates at which fees may be levied by the Council under section 16 and the manner in which such fees may be levied;

(*h*) the form in which, and the time within which, the budget and annual report are to be prepared by the Council under sections 19 and 20 respectively;

(*i*) the manner in which the accounts of the Council are to be maintained and audited under section 22.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session 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 to make regulations.

26. The Council may make regulations not inconsistent with this Act and the rules made thereunder, for—

(*a*) regulating the meetings of the Council or any committee thereof and the procedure for conducting the business thereat under section 9;

(*b*) specifying the terms and conditions of service of the employees, appointed by the Council, under sub-section (*2*) of section 11;

(*c*) regulating the manner of holding any inquiry under this Act;

(*d*) delegating to the Chairman or the Secretary of the Council, subject to such conditions as it may think fit to impose, any of its powers under sub-section (*3*) of section 18;

(*e*) any other matter for which provision may be made by regulations under this Act:

Provided that the regulations made under clause (*b*) shall be made only with the prior approval of the Central Government.

Amendment of Act 25 of 1867.

27. In sub-section (*1*) of section 8C of the Press and Registration of Books Act, 1867, for the words "consisting of a Chairman and another member to be appointed by the Central Government", the words and figures "consisting of a Chairman and another member to be nominated by the Press Council of India, established under section 4 of the Press Council Act, 1978, from among its members" shall be substituted.

Rep. by Act 19 of 88, S. 2 & Sch. I

THE REPEALING AND AMENDING ACT, 1978

No. 38 OF 1978

[26th November, 1978.]

An Act to repeal certain enactments and to amend certain other enactments.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short-title.

1. This Act may be called the Repealing and Amending Act, 1978.

Repeal of certain enactments.

2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Explanation.—In this section and in section 4, "enactment" includes the Indian Union Police Force Regulation, 1358 Fasli. Hyd. Reg. XXV of 1358F.

Amendment of certain enactments.

3. The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any

REPEALED

manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

(*See* section 2)

REPEALS

Year	No.	Short title	Extent of repeal
1	2	3	4
		Central Acts	
1970	41	The Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1970	The whole.
1971	7	The Imports and Exports (Control) Amendment Act, 1971	The whole.
1971	15	The State of Himachal Pradesh (Amendment) Act, 1971	The whole.
1971	16	The Labour Provident Fund Laws (Amendment) Act, 1971	The whole.
1971	21	The Gold (Control) Amendment Act, 1971	Sections 2, 3 and 6.
1971	22	The Salaries and Allowances of Officers of Parliament (Amendment) Act, 1971	The whole.
1971	31	The West Bengal State Legislature (Delegation of Powers) Act, 1971	The whole.
1971	33	The Indian Telegraph (Amendment) Act, 1971	The whole.
1971	35	The Gujarat State Legislature (Delegation of Powers) Act, 1971	The whole.
1971	36	The Punjab State Legislature (Delegation of Powers) Act, 1971	The whole.
1971	39	The Agricultural Refinance Corporation (Amendment) Act, 1971	The whole.
1971	41	The Prevention of Food Adulteration (Amendment) Act, 1971	Sections 2 and 3.
1971	44	The Stamp and Excise Duties (Amendment) Act, 1971	The whole.
1971	45	The Industrial Disputes (Amendment) Act, 1971	The whole.
1971	49	The Air Corporations (Amendment) Act, 1971	The whole.
1971	53	The Forward Contracts (Regulation) Amendment Act, 1971	The whole.
1971	54	The Coal Bearing Areas (Acquisition and Development) Amendment and Validation Act, 1971	Sections 2 to 7.
1971	75	The Arms (Amendment) Act, 1971	The whole.

REPEALED

Year	No.	Short title	Extent of repeal
1	2	3	4
1971	57	The Visva-Bharati (Amendment) Act, 1971	Sections 2 to 12 and 14.
1971	65	The Essential Commodities (Amendment) Act, 1971	Sections 2, 3 and 5.
1971	67	The Indian Tariff (Amendment) Act, 1971	The whole.
1971	71	The Delhi Road Transport Laws (Amendment) Act, 1971	Sections 2 and 8.
1971	72	The Industries (Development and Regulation) Amendment Act, 1971	Sections 2 to 10.
1971	74	The Personal Injuries (Emergency Provisions) Amendment Act, 1971	Sections 2 and 3.
1971	75	The Personal Injuries (Compensation Insurance) Amendment Act, 1971	Sections 2, 3 and 4.
1971	77	The Supreme Court Judges (Conditions of Service) Amendment Act, 1971	The whole.
1971	78	The High Court Judges (Conditions of Service) Amendment Act, 1971	The whole.
1971	79	The Commissions of Inquiry (Amendment) Act, 1971	Sections 2 to 14.
1971	80	The Companies (Amendment) Act, 1971	The whole.
1971	83	The Government of Union Territories (Amendment) Act, 1971	The whole.
1972	7	The Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972	Sections 2 to 4.
1972	8	The Administrators General (Amendment) Act, 1972	The whole.
1972	10	The Contingency Fund of India (Amendment) Act, 1972	The whole.
1972	12	The Aircraft (Amendment) Act, 1972	The whole.
1972	21	The Maternity Benefit (Amendment) Act, 1972	The whole.
1972	22	The Cantonments (Extension of Rent Control Laws) Amendment Act, 1972	The whole.
1972	23	The Secunderabad and Aurangabad Cantonments House Rent Control Law (Repeal) Act, 1972	The whole.
1972	25	The Taxation Laws (Extension to Jammu and Kashmir) Act, 1972	Sub-section (3) of section 2 and the Schedule.
1972	27	The General Insurance (Emergency Provisions) Amendment Act, 1972	Sections 2 and 3.
1972	29	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1972	The whole.
1972	31	The Criminal Law (Amendment) Act, 1972	The whole.
1972	32	The Industrial Disputes (Amendment) Act, 1972	The whole.
1972	33	The University Grants Commission (Amendment) Act, 1972	Sections 2 to 8 and 10
1972	34	The Aligarh Muslim University (Amendment) Act, 1972	Sections 2 to 32.
1972	37	The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972	The whole.
1972	38	The Indian Telegraph (Amendment) Act, 1972	The whole.
1972	40	The Victoria Memorial (Amendment) Act, 1972	The whole.
1972	41	The Income-tax (Amendment) Act, 1972	Sections 2, 3 and 6.
1972	42	The Dentists (Amendment) Act, 1972	The whole.

REPEALED

Year	No.	Short title	Extent of repeal
1	2	3	4
1972	45	The Taxation Laws (Amendment) Act, 1972	Sections 2 to 24.
1972	46	The Insecticides (Amendment) Act, 1972	The whole.
1972	47	The Rice-Milling Industry (Regulation) Amendment Act, 1972	The whole.
1972	48	The Delhi University (Amendment) Act, 1972	The whole.
1972	49	The Punjab New Capital (Periphery) Control (Chandigarh Amendment) Act, 1972	The whole.
1972	54	The Rulers of Indian States (Abolition of Privileges) Act, 1972	The whole.
1972	55	The Seeds (Amendment) Act, 1972	The whole.
1972	56	The Mines and Minerals (Regulation and Development) Amendment Act, 1972	The whole.
1972	57	The General Insurance Business (Nationalisation) Act, 1972	Section 40.
1972	58	The Indian Copper Corporation (Acquisition of Undertaking) Act, 1972	Section 19.
1972	60	The Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Amendment Act, 1972	Sections 2 and 3.
1972	61	The Central Sales Tax (Amendment) Act, 1972	Sections 2 to 13.
1972	67	The Food Corporations (Amendment) Act, 1972	The whole.
1972	68	The Payment of Bonus (Amendment) Act, 1972	The whole.
1972	69	The Carriage by Air Act, 1972	Section 9.
1972	70	The Coal Mines Labour Welfare Fund (Amendment) Act, 1972	The whole.
1972	71	The Indian Railways (Amendment) Act, 1972	The whole.
1972	73	The Indian Tariff (Amendment) Act, 1972	The whole.
1972	74	The Industrial Finance Corporation (Amendment) Act, 1972	The whole.
1972	75	The Industrial Development Bank of India (Amendment) Act, 1972	The whole.
1972	77	The State Financial Corporations (Amendment) Act, 1972	The whole.
1973	1	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1973	The whole.
1973	2	The Diplomatic and Consular Officers (Oaths and Fees) (Extension to Jammu and Kashmir) Act, 1973	Section 3.
1973	3	The Seaward Artillery Practice (Amendment) Act, 1973	The whole.
1973	8	The Andhra Pradesh State Legislature (Delegation of Powers) Act, 1973	The whole.
1973	17	The Capital of Punjab (Development and Regulation) (Chandigarh Amendment) Act, 1973	Sections 2 to 6.
1973	20	The Orissa State Legislature (Delegation of Powers) Act, 1973	The whole.
1973	22	The Central Excises and Salt (Amendment) Act, 1973	The whole.
1973	23	The Manipur State Legislature (Delegation of Powers) Act, 1973	The whole.
1973	25	The Cinematograph (Amendment) Act, 1973	Sections 2 to 4.
1973	27	The Apprentices (Amendment) Act, 1973	The whole.

REPEALED

Year	No.	Short title	Extent of repeal
1	2	3	4
1973	32	The National Co-operative Development Corporation (Amendment) Act, 1973	The whole.
1973	33	The Uttar Pradesh State Legislature (Delegation of Powers) Act, 1973	The whole.
1973	36	The Customs, Gold (Control) and Central Excises and Salt (Amendment) Act, 1973	The whole.
1973	37	The Agricultural Refinance Corporation (Amendment) Act, 1973	The whole.
1973	39	The Payment of Bonus (Amendment) Act, 1973	The whole.
1973	40	The Employees' Provident Funds and Family Pension Fund (Amendment) Act, 1973	The whole.
1973	41	The Coking and Non-coking Coal Mines (Nationalisation) Amendment Act, 1973	The whole.
1973	44	The Reserve Bank of India (Amendment) Act, 1973	The whole.
1973	45	The Indian Railways (Amendment) Act, 1973	The whole.
1973	47	The Foreign Awards (Recognition and Enforcement) Amendment Act, 1973	The whole.
1973	48	The State Bank Laws (Amendment) Act, 1973	The whole.
1973	49	The Code of Civil Procedure (Amendment) Act, 1973	The whole.
1973	51	The Textiles Committee (Amendment) Act, 1973	The whole.
1973	52	The Maternity Benefit (Amendment) Act, 1973	The whole.
1973	54	The Indian Railways (Second Amendment) Act, 1973	The whole.
1973	55	The Payment of Bonus (Second Amendment) Act, 1973	Section 2.
1973	58	The Central Excises and Salt (Second Amendment) Act, 1973	The whole.
1973	60	The Advocates (Amendment) Act, 1973	The whole.
1973	66	The Income-tax (Amendment) Act, 1973	Section 2.
1973	67	The Industries (Development and Regulation) Amendment Act, 1973	The whole.
1974	3	The National Co-operative Development Corporation (Amendment) Act, 1974	The whole.
1974	5	The Presidential and Vice-Presidential Elections (Amendment) Act, 1974	The whole.
1974	8	The North-Eastern Areas (Reorganisation) Amendment Act, 1974	The whole.
1974	11	The Gujarat State Legislature (Delegation of Powers) Act, 1974	The whole.
1974	21	The Estate Duty (Distribution) Amendment Act, 1974	The whole.
1974	22	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1974	The whole.
1974	23	The Union Duties of Excise (Distribution) Amendment Act, 1974	The whole.
1974	26	The Direct Taxes (Amendment) Act, 1974	Sections 2 to 21.
1974	28	The Coal Mines (Conservation and Development) Act, 1974	Section 19.

REPEALED

Year	No.	Short title	Extent of repeal
1	2	3	4
1974	29	The Major Port Trusts (Amendment) Act, 1974 . .	Sections 2 to 39.
1974	30	The Essential Commodities (Amendment) Act, 1974 .	Sections 2 to 12 and 14.
1974	32	The Industries (Development and Regulation) Amendment Act, 1974	The whole.
1974	33	The Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Act, 1974 . . .	The whole.
1974	36	The Indian Iron and Steel Company (Taking Over of Management) Amendment Act, 1974 . . .	The whole.
1974	40	The Esso (Acquisition of Undertakings in India) Amendment Act, 1974	The whole.
1974	41	The Companies (Amendment) Act, 1974 . .	The whole.
1974	42	The Payment of Bonus (Amendment) Act, 1974 . .	The whole.
1974	45	The Interest-tax Act, 1974	Section 30.
1974	46	The Delhi Sikh Gurdwaras (Amendment) Act, 1974 .	The whole.
1974	48	The Indian Telegraph (Amendment) Act, 1974 . .	Section 2.
1974	49	The Small Coins (Offences) Amendment Act, 1974 .	The whole.
1974	50	The Indian Works of Defence (Amendment) Act, 1974 .	The whole.
1974	51	The Reserve Bank of India (Amendment) Act, 1974 .	The whole.
1974	53	The Navy (Amendment) Act, 1974	The whole.
1974	55	The Delhi Municipal Corporation (Amendment) Act, 1974	The whole.
1974	56	The Repealing and Amending Act, 1974 . . .	The whole.
1974	59	The Punjab Municipal (Chandigarh Amendment) Act, 1974	The whole.
1974	60	The Working Journalists (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1974 .	The whole.
1974	65	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1974	The whole.
1975	1	The Indian Tariff (Amendment) Act, 1975 . . .	The whole.
1975	2	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1975	The whole.
1975	3	The North-Eastern Areas (Reorganisation) Amendment Act, 1975	The whole.
1975	13	The Air Force and Army Laws (Amendment) Act, 1975 .	The whole.
1975	16	The Trust Laws (Amendment) Act, 1975 . . .	The whole.
1975	19	The All-India Services Regulations (Indemnity) Act, 1975	Section 3.
1975	23	The All-India Services (Amendment) Act, 1975 . .	Section 2.
1975	24	The Former Secretary of State Service Officers (Conditions of Service) Amendment Act, 1975 . . .	The whole.
1975	28	The Companies (Temporary Restrictions on Dividends) Amendment Act, 1975	The whole.
1975	31	The Nagaland State Legislature (Delegation of Powers) Act, 1975	The whole.
1975	38	The Employees' State Insurance (Amendment) Act, 1975	The whole.

REPEALED

Year	No.	Short title	Extent of repeal
1	2	3	4
1975	39	The Maintenance of Internal Security (Amendment) Act, 1975	The whole.
1975	44	The Telegraph Wires (Unlawful Possession) Amendment Act, 1975	The whole.
1975	45	The Agricultural Refinance Corporation (Amendment) Act, 1975	Sub-section (*1*) of section 2 and sections 3 to 15.
1975	46	The Provident Funds (Amendment) Act, 1975 .	The whole.
1975	47	The Indian Coinage (Amendment) Act, 1975 .	The whole.
1975	48	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1975	The whole.
1975	50	The National Cadet Corps (Amendment) Act, 1975 .	The whole.
1975	52	The Public Financial Institutions Laws (Amendment) Act, 1975	Sections 2 to 20 and 22 to 58.
		Hyderabad Regulation	
		The Indian Union Police Force Regulation, 1358 Fasli (Hyderabad Regulation No. XXV of 1358F.) .	The whole.

THE SECOND SCHEDULE

(*See* section 3)

AMENDMENTS

Year 1	No. 2	Short title 3	Amendments 4
1908	5	The Code of Civil Procedure, 1908	(*1*) In sub-section (*2*) of section 123,— (*i*) in clause (*c*), the word "and" occurring at the end shall be omitted; (*ii*) clause (*d*) shall be omitted. (*2*) In the First Schedule, in Order XXI, in rule 23, in sub-rule (1), for the words "the last preceding rule", the word and figures "rule 22" shall be substituted.
1951	43	The Representation of the People Act, 1951.	(*a*) In sub-section (*1*) of section 11A,— (*i*) the brackets and letter "(*a*)" occurring before the words "is convicted" shall be omitted; (*ii*) the word "or" occurring before the words "he shall" shall be omitted. (*b*) In sub-section (*3*) of section 33, for the words, brackets, letter and figure "clause (*f*) of section 7", the word and figure "section 9" shall be substituted.
1956	74	The Central Sales Tax Act, 1956	In item (*i*) of clause (*iv*) of section 14, for the words "ingot moulds bottom plates" the words "ingot moulds, bottom plates" shall be substituted.
1973	26	The Coal Mines (Nationalisation) Act, 1973.	In clause (*b*) of sub-section (*2*) of section 22, for the word and figures "section 15", the word and figures "section 14" shall be substituted.
1974	4	The Esso (Acquisition of Undertakings in India) Act, 1974.	In sub-section (*4*) of section 4, for the words "against the concerned Government company", the words "by or against the concerned Government company" shall be substituted.
1975	43	The Delhi Sales Tax Act, 1975	(*i*) In sub-section (*3*) of section 14, in the second proviso, for the words "points of sale", the words "point of sale" shall be substituted. (*ii*) In sub-section (*4*) of section 19, for the words "the firm who changed constitution", the words "the firm which changed the constitution" shall be substituted.
1976	8	The Burmah Shell (Acquisition of Undertakings in India) Act, 1976.	In sub-section (*2*) of section 15, after the words "secretary or other officer", the words "of the company, such director, manager, secretary or other officer" shall be inserted.

Rep. by Act.....19.....of 19 88, S-2 & Sch. I

THE EMPLOYMENT OF CHILDREN (AMENDMENT) ACT, 1978

No. 39 OF 1978

[29*th November*, 1978.]

An Act further to amend the Employment of Children Act, 1938.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Employment of Children (Amendment) Act, 1978.

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

Amendment of section 3.

2. In section 3 of the Employment of Children Act, 1938 (hereinafter referred to as the principal Act), in sub-section (*1*), clause (*b*) shall be re-lettered as clause (*e*), and before clause (*e*) as so re-lettered, the following clauses shall be inserted, namely:— 26 of 1938.

"(*b*) connected with cinder picking, clearing of an ash pit or building operation, in the railway premises; or

(*c*) connected with the work in a catering establishment, at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train; or

(*d*) connected with the work relating to the construction of a railway station or with any other work where such work is done in close proximity to, or between, the railway lines; or".

Amendment of section 3E.

3. In section 3E of the principal Act,—

(*i*) for the words "and every port authority", the words ", every port authority and every employer" shall be substituted;

(*ii*) after the words "within the limits of a port", the words "or at the place of work" shall be inserted.

REPEALED

4. In section 4 of the principal Act,— **Amendment of section 4.**

(*i*) in clause (*c*), the word "or" shall be inserted at the end;

(*ii*) after clause (*c*), as so amended, the following clause shall be inserted, namely:—

"(*d*) fails to display a notice containing an abstract of sub-sections (*1*) and (*2*) of section 3 and section 4 as required by section 3E,".

5. In section 7 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— **Amendment of section 7.**

"(*3*) 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 immediately following the session 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.".

THE ADDITIONAL DUTIES OF EXCISE (TEXTILES AND TEXTILE ARTICLES) ACT, 1978

No. 40 OF 1978

[*6th December*, 1978.]

An Act to provide for the levy and collection of additional duties of excise on certain textiles and textile articles.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978.

(*2*) It shall be deemed to have come into force on the 4th day of October, 1978.

Definitions.

~~2. In this Act, "cotton fabrics", "silk fabrics", "woollen fabrics",~~ (xxx 3) "man-made fabrics" and "wool tops" shall have the meanings respectively assigned to them in Items Nos. 19, 20, 21, ~~22 and 43 of the First Schedule to the Central Excises and Salt Act, 1944.~~ 1 of 1944.

Levy and collection of additional duties of excise on certain textiles and textile articles.

3. ~~(*1*) When goods of the description mentioned in the Schedule~~ chargeable with a duty of excise under the Central Excises and Salt Act, 1944, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable, are assessed to duty, there shall be levied and collected a duty of excise ~~equal to ten per cent. of the total amount so chargeable on such goods.~~ [~~fifteen per cent.~~] 1 1 of 1944.

(*2*) The duties of excise referred to in sub-section (*1*) in respect of the goods specified in the Schedule shall be in addition to the duties of excise chargeable on such goods under the Central Excises and Salt Act, 1944, or any other law for the time being in force and shall be levied for the purposes of the Union and the proceeds thereof shall not be distributed among the States. 1 of 1944.

(*3*) The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, so far as may be, apply in relation to the 1 of 1944.

1 Subs. by Act 16 of 1981, S. 51
2 Subs. by Act 11 of 1983, S. 57
3 omitted by Act 6 of 1986, S. 2 (w.e.f. 28.2.1986).

levy and collection of the duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules.

4 of 1978.

Repeal and saving.

4. (1) The Additional Duties of Excise (Textiles and Textile Articles) Ordinance, 1978, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

~~THE SCHEDULE~~

(*See* section 3)

S. No.	Description of goods
(1)	(2)
1.	Man-made fibres, other than mineral fibres, man-made filament yarns, cellulosic spun yarn and non-cellulosic wastes, all sorts as described in Item No. 18 I, 18 II, 18 III and 18 IV respectively of the First Schedule to the Central Excises and Salt Act, 1944.
2.	Cotton yarn, all sorts as described in Item No. 18A of the First Schedule to the Central Excises and Salt Act, 1944.
3.	Woollen and acrylic spun yarn as described in Item No. 18B of the First Schedule to the Central Excises and Salt Act, 1944.
4.	Non-cellulosic spun yarn as described in Item No. 18E of the First Schedule to the Central Excises and Salt Act, 1944.
5.	Cotton fabrics.
6.	Silk fabrics.
7.	Woollen fabrics.
8.	Man-made fabrics.
~~9.~~	~~Wool tops.~~

1 Subs. by Act 6 of 1986, S.2 (w.e.f. 28.2.1986)
3 Ins. by Act 23 of 1986, S. 56 & Sch. V

THE BRITANNIA ENGINEERING COMPANY LIMITED (MOKAMEH UNIT) AND THE ARTHUR BUTLER AND COMPANY (MUZAFFARPORE) LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1978

ARRANGEMENT OF SECTIONS

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4. General effect of vesting.
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PAYMENT OF AMOUNT

7. Payment of amount.
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MANAGEMENT, ETC., OF MOKAMEH UNIT AND THE UNDERTAKINGS OF ARTHUR BUTLER AND COMPANY

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10. Duty to deliver possession of Mokameh unit and undertakings of Arthur Butler and Company.

SECTIONS

11. Duty of the companies to furnish particulars.

12. Duty of persons in charge of management of Mokameh unit or undertakings of Arthur Butler and Company to deliver assets, etc.

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PROVISIONS RELATING TO EMPLOYEES OF MOKAMEH UNIT AND OF ARTHUR BUTLER AND COMPANY

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16. Payment by Central Government to the Commissioner.

17. Certain powers of the Central Government or Government company.

18. Claims to be made to the Commissioner.

19. Priority of claims.

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE BRITANNIA ENGINEERING COMPANY LIMITED (MOKAMEH UNIT) AND THE ARTHUR BUTLER AND COMPANY (MUZAFFARPORE) LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1978

No. 41 OF 1978

[*8th December*, 1978.]

An Act to provide for the acquisition and transfer of the right, title and interest of the undertakings of Britannia Engineering Company in relation to the Mokameh unit owned by it and the right, title and interest of Arthur Butler and Company in relation to the undertakings owned by it, with a view to ensuring the continued manufacture of railway wagons and other goods essential to the needs of the country in general and the Railways in particular, and for matters connected therewith or incidental thereto.

WHEREAS Britannia Engineering Company at the Mokameh unit and Arthur Butler and Company were engaged in the manufacture of railway wagons and other goods;

AND WHEREAS as a result of the closure of the wagon and other undertakings owned by the companies aforesaid, there was a substantial fall in the manufacture of railway wagons and other goods;

AND WHEREAS for the purpose of bringing the closed works of the companies aforesaid into operation the management of the Mokameh unit of Britannia Engineering Company and the management of the undertakings of Arthur Butler and Company were taken over by the Central Government under the Industries (Development and Regulation) Act, 1951; 65 of 1951.

AND WHEREAS it is necessary to acquire the said wagon and other undertakings to ensure the continued manufacture of railway wagons and other goods which are essential to the needs of the country in general, and the Railways in particular;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Britannia Engineering Company Limited (Mokameh Unit) and the Arthur Butler and Company (Muzaffarpore) Limited (Acquisition and Transfer of Undertakings) Act, 1978.

(2) The provisions of sections 27 and 28 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1978.

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

(*a*) "appointed day" means the 1st day of April, 1978;

(*b*) "Arthur Butler and Company" means Messrs. Arthur Butler and Company (Muzaffarpore) Limited, a company within the meaning of the Companies Act, 1956, and having its registered office at 40, Strand Road, Calcutta, in the State of West Bengal; 1 of 1956

(*c*) "Britannia Engineering Company" means Messrs. Britannia Engineering Company Limited, a company within the meaning of the Companies Act, 1956, and having its registered office at 3, Netaji Subhash Road, Calcutta, in the State of West Bengal; 1 of 1956

(*d*) "Commissioner" means the Commissioner of Payments appointed under section 15;

(*e*) "Government company" means a company within the meaning of section 617 of the Companies Act, 1956 and referred to in section 5 of this Act; 1 of 1956

(*f*) "Mokameh unit" means the wagon and other undertakings owned by Britannia Engineering Company at Mokameh, in the State of Bihar;

(*g*) "notification" means a notification published in the Official Gazette;

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

(*i*) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purpose of that provision and different dates may be specified for different provisions of this Act;

(*j*) "wagon and other undertaking" means the undertaking which is engaged in the manufacture of railway wagons and other goods;

(*k*) words and expressions used herein and not defined but defined in the Companies Act, 1956, have the meanings, respectively, assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION AND TRANSFER OF MOKAMEH UNIT AND UNDERTAKINGS OF ARTHUR BUTLER AND COMPANY

Vesting in the Central Government of Mokameh unit and undertakings of Arthur Butler and Company.

3. On the appointed day,—

(*i*) the Mokameh unit and the right, title and interest of Britannia Engineering Company in relation to the Mokameh unit; and

(*ii*) the undertakings owned by Arthur Butler and Company and the right, title and interest of Arthur Butler and Company in relation to the said undertakings,

shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

General effect of vesting.

4. (*1*) The Mokameh unit, and the undertakings of Arthur Butler and Company, referred to in section 3, shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash in hand, reserve funds, investments and book debts pertaining to the Mokameh unit or, as the case may be, the undertakings of Arthur Butler and Company, and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control—

(*a*) of Britannia Engineering Company, in relation to the Mokameh unit, or

(*b*) of Arthur Butler and Company, in relation to the undertakings owned by it,

whether within or outside India, and all books of account, registers and other documents of whatever nature relating thereto.

(*2*) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court or other authority, restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(*3*) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(*4*) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (*3*) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of amounts specified in the First Schedule and also out of

the monies determined under section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government or the Government company, as the case may be.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature instituted or preferred by or against Britannia Engineering Company in relation to the Mokameh unit, or by or against Arthur Butler and Company in relation to any undertaking owned by it, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the Mokameh unit or, as the case may be, the undertakings of Arthur Butler and Company, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government or the Government company, as the case may be.

Power of Central Government to direct vesting of Mokameh unit and the undertakings of Arthur Butler and Company in a Government company.

5. (1) Notwithstanding anything contained in section 3, the Central Government may, if it is satisfied that a Government company (whether in existence at the commencement of this Act or incorporated thereafter) is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the Mokameh unit and the undertakings referred to in section 3, and the right, title and interest of Britannia Engineering Company in relation to the Mokameh unit, and the right, title and interest of Arthur Butler and Company in relation to the undertakings owned by it, which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest in relation to the Mokameh unit and in relation to the other undertakings referred to in section 3, vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner of the Mokameh unit and of the undertakings of Arthur Butler and Company and all the rights and liabilities of the Central Government in relation to the Mokameh unit and the undertakings of Arthur Butler and Company shall, on and from the date of such vesting, be deemed to have been the rights and liabilities, respectively, of the Government company.

Britannia Engineering Company and Arthur Butler and Company to be liable for certain prior liabilities.

6. (1) Every liability of Britannia Engineering Company in relation to the Mokameh unit, or of Arthur Butler and Company in relation to the undertakings owned by it, in respect of any period prior to the appointed day, shall be the liability of Britannia Engineering Company, or Arthur Butler and Company, as the case may be, and shall be enforceable against such company and not against the Central Government or the Government company.

(2) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other section of this Act,—

(i) no liability of Britannia Engineering Company, in relation to the Mokameh unit, and

(*ii*) no liability of Arthur Butler and Company, in relation to the undertakings owned by it,

in respect of any period prior to the appointed day, shall be enforceable against the Central Government or the Government company, as the case may be;

(*b*) no award, decree or order of any court, tribunal or other authority in relation to the Mokameh unit, or in relation to the undertakings owned by Arthur Butler and Company, passed after the appointed day in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government or the Government company, as the case may be;

(*c*) no liability incurred before the appointed day by—

(*i*) Britannia Engineering Company, in relation to the Mokameh unit, or

(*ii*) Arthur Butler and Company, in relation to the undertakings owned by it,

for the contravention of any provision of law for the time being in force shall be enforceable against the Central Government or the Government company, as the case may be.

CHAPTER III

PAYMENT OF AMOUNT

Payment of amount.

7. (*1*) For the transfer to, and vesting in, the Central Government, under section 3,—

(*a*) of the Mokameh unit and the right, title and interest of Britannia Engineering Company, in relation to that unit; and

(*b*) of the undertakings owned by Arthur Butler and Company, and the right, title and interest of Arthur Butler and Company, in relation to those undertakings,

there shall be given by the Central Government to Britannia Engineering Company and Arthur Butler and Company, in cash and in the manner specified in Chapter VI, an amount equal to the amount specified, respectively, in the First Schedule, against Britannia Engineering Company and Arthur Butler and Company.

(*2*) For the removal of doubts, it is hereby declared that the liabilities of—

(*i*) Britannia Engineering Company, in relation to the Mokameh unit, and

(*ii*) Arthur Butler and Company, in relation to the undertakings owned by it,

shall be met, in accordance with the rights and interests of the creditors of the respective company from the amount due, respectively, to Britannia Engineering Company and Arthur Butler and Company, under sub-section (*1*).

Payment of further amount.

8. (*1*) For the deprivation of Britannia Engineering Company of the management of the Mokameh unit and for the deprivation of Arthur Butler and Company of the management of the undertakings owned by it, there shall be given, in cash, by the Central Government to the respective company, in addition to the amount specified in section 7, an amount computed at the rate of ten thousand rupees per annum for the period commencing on the date on which the management of such unit or, as the case may be, such undertakings, was taken over by the Central Government under the Industries (Development and Regulation) Act, 1951 and ending with the appointed day.

65 of 1951

(*2*) In consideration of the retrospective operation of the provisions of sections 3, 4 and 6, there shall also be given, in cash, by the Central Government to Britannia Engineering Company and to Arthur Butler and Company an amount equal to an amount calculated at the rate of ten thousand rupees per annum for the period commencing on the appointed day and ending with the date on which this Act receives the assent of the President.

(*3*) The amount specified in section 7 and the amount computed under sub-sections (*1*) and (*2*) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending with the date on which the payment of amount is made by the Central Government to the Commissioner.

(*4*) The amounts determined in accordance with the provisions of sub-sections (*1*), (*2*) and (*3*) shall be given to Britannia Engineering Company and to Arthur Butler and Company in addition to the amount specified in the First Schedule.

CHAPTER IV

MANAGEMENT, ETC., OF MOKAMEH UNIT AND THE UNDERTAKINGS OF ARTHUR BUTLER AND COMPANY

Management, etc., of Mokameh unit and the undertakings of Arthur Butler and Company.

9. On the appointed day, the general superintendence, direction, control and management of the affairs and business of the Mokameh unit and of the undertakings owned by Arthur Butler and Company shall—

(*a*) where a direction has been made by the Central Government under section 5, vest in the Government company specified in such direction, or

(*b*) where no such direction has been made, vest in such person or body of persons as may be appointed by the Central Government in this behalf,

and thereupon the Government company so specified or the person or body of persons so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as Britannia Engineering Company is authorised to exercise and do in relation to its Mokameh unit or, as the case may be, Arthur Butler and Company is authorised to exercise and do in relation to the undertakings owned by it.

Duty to deliver possession of Mokameh unit and undertakings of Arthur Butler and Company.

10. (*1*) Every person, in whose possession or custody or control—

(*i*) the Mokameh unit, or

(*ii*) any undertaking of Arthur Butler and Company, or

any part of such unit or undertaking or any machinery, instrument or other movable assets forming part of such unit or undertaking, may be immediately before the appointed day, shall forthwith deliver possession of the Mokameh unit or such undertaking or such part, machinery, instrument or other asset, as the case may be, to the Central Government or the Government company or to such person or body of persons as the Central Government or the Government company may specify in this behalf.

(*2*) Every person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to the Mokameh unit or any undertaking owned by Arthur Butler and Company, which has vested in the Central Government or a Government company under this Act, and which belong to Britannia Engineering Company or, as the case may be, Arthur Butler and Company, or would have so belonged if the Mokameh unit, or as the case may be, the undertakings owned by Arthur Butler and Company, had not vested in the Central Government or the Government company, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Government company and shall deliver them up to the Central Government or the Government company or to such person or body of persons as the Central Government or the Government company may specify in this behalf.

(*3*) The Central Government may take or cause to be taken all necessary steps for securing possession of the Mokameh unit and the undertakings of Arthur Butler and Company which have vested in it under section 3.

Duty of the companies to furnish particulars.

11. Britannia Engineering Company and Arthur Butler and Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the Mokameh unit or, as the case may be, the undertakings owned by Arthur Butler and Company which has or have vested in the Central Government under section 3, and, for this purpose the Central Government or the Government company shall afford Britannia Engineering Company or Arthur Butler and Company all reasonable facilities.

Duty of persons in charge of management of Mokameh unit or undertakings of Arthur Butler and Company to deliver assets, etc.

12. On the vesting in the Central Government or the Government company of the management of the Mokameh unit or of any undertakings owned by Arthur Butler and Company, all persons in charge of the management of the Mokameh unit or, as the case may be, the undertakings owned by Arthur Butler and Company immediately before the date of such vesting, shall be bound to deliver to the Central Government or the Government company or to such person or body of persons as the Central Government or the Government company may specify in this behalf, all assets, books of account, registers or other documents in their custody relating to the Mokameh unit or, as the case may be, any undertaking owned by Arthur Butler and Company.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF MOKAMEH UNIT AND OF ARTHUR BUTLER AND COMPANY

Employment of employees to continue.

13. (*1*) Every person who has been, immediately before the appointed day, employed by—

(*i*) Britannia Engineering Company, in connection with the Mokameh unit, or

(*ii*) Arthur Butler and Company, in connection with any undertaking owned by it,

shall become, on and from the appointed day, an employee of the Central Government or, as the case may be, of the Government company, and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

14 of 1947.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in the Mokameh unit or any undertakings owned by Arthur Butler and Company, to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Provident fund and other funds.

14. (*1*) Where Britannia Engineering Company or Arthur Butler and Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of persons employed in the Mokameh unit or, as the case may be, any of the undertakings owned by Arthur Butler and Company, the monies relatable to the employees, whose services have become transferred by or under this Act to the Central Government or the Government company shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other funds, stand transferred to, and vest in, the Central Government or the Government company, as the case may be.

(*2*) The monies which stand transferred under sub-section (*1*) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or the Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

15. (*1*) The Central Government shall, for the purpose of disbursing the amount payable under sections 7 and 8 to Britannia Engineering Company and to Arthur Butler and Company, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by Central Government to the Commissioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to Britannia Engineering Company and to Arthur Butler and Company,—

(a) an amount equal to that specified against each of their names in the First Schedule,

(b) an amount equal to that payable to Britannia Engineering Company and Arthur Butler and Company under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of Mokameh unit and the undertakings owned by Arthur Butler and Company in relation to which payment has been made to him under this Act.

(4) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of Britannia Engineering Company and Arthur Butler and Company.

Certain powers of the Central Government or Government company.

17. (1) The Central Government or the Government company, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to Britannia Engineering Company in relation to the Mokameh unit, or Arthur Butler and Company in relation to any of the undertakings owned by it, which has vested in the Central Government or the Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government after the appointed day for discharging any liability of Britannia Engineering Company in relation to the Mokameh unit, or of Arthur Butler and Company in relation to any of the undertakings owned by it, in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching under this Act, to the matter in relation to which such

liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of Britannia Engineering Company in relation to the Mokameh unit, or of Arthur Butler and Company in relation to any of the undertakings owned by it, in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of Britannia Engineering Company or Arthur Butler and Company, as the case may be.

Claims to be made to the Commissioner.

18. Every person having a claim against Britannia Engineering Company in relation to the Mokameh unit, or against Arthur Butler and Company in relation to the undertakings owned by it, shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

Priority of claims.

19. The claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the following principles, namely:—

(*a*) category I shall have precedence over all categories and category II shall have precedence over category III and so on;

(*b*) the claims specified in each of the categories, except category IV, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportion and be paid accordingly;

(*c*) the liabilities specified in category IV shall be discharged subject to the priorities specified in this section in accordance with the terms of the secured loan and the priority, *inter se*, of such loans; and

(*d*) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examination of claims.

20 (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Second Schedule and examine the same in accordance with such order of priorities.

(2) If on an examination of the claim, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claim in respect of such lower category.

Admission or rejection of claims.

21. (1) After examining the claims with reference to the priorities set out in the Second Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim failing which he will be excluded from the benefit of the disbursement made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of the daily newspaper in the English language having circulation in the major part of the country and one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursement made by the Commissioner.

Claims to be made to the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving Britannia Engineering Company or, as the case may be, Arthur Butler and Company, an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

Priority of claims.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sitting and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Examination of claims.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal court of original jurisdiction within the local limits of whose jurisdiction the Mokameh unit or, as the case may be, the registered office of Arthur Butler and Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court of the State in which the registered office of Britannia Engineering Company or, as the case may be, Arthur Butler and Company is situated, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by Commissioner.

22. After admitting the claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such sums are due and on such payment the liability of Britannia Engineering Company in relation to the Mokameh unit, or of Arthur Butler and Company in respect of any claim relating to the undertakings owned by it shall stand discharged.

23. (*1*) If out of the monies paid to him in relation to the Mokameh unit or in relation to any undertaking owned by Arthur Butler and Company there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to Britannia Engineering Company, or as the case may be, to Arthur Butler and Company.

Disbursement of amounts to Britannia Engineering Company and Arthur Butler and Company.

(*2*) Where the possession of any machinery, equipment or other property has vested in the Central Government or the Government company under this Act, but such machinery, equipment or other property does not belong to Britannia Engineering Company or, as the case may be, Arthur Butler and Company, it shall be lawful for the Central Government to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by Britannia Engineering Company or, as the case may be, Arthur Butler and Company, immediately before the appointed day.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last date on which the disbursement was made, shall be transferred by the Commissioner to the General Revenue Account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

Undisbursed or unclaimed amount to be deposited with the General Revenue Account.

CHAPTER VII

MISCELLANEOUS

25. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Act to have overriding effect.

26. (*1*) Every contract entered into by Britannia Engineering Company in relation to the Mokameh unit, or Arthur Butler and Company in relation to any of the undertakings owned by it, which has vested in the Central Government under section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the date on which this Act receives the assent of the President, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government, or the Government company, and in ratifying such contract, the Central Government or the Government company may make such alteration or modification therein as it may think fit:

Contracts to cease to have effect unless ratified by the Central Government or the Government company.

Provided that the Central Government or the Government company shall not omit to ratify a contract and shall not make any alteration

or modification in a contract unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of, the Central Government or the Government company.

(2) The Central Government or the Government company shall not omit to ratify a contract, and shall not make any alteration or modification therein, except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Penalties.

27. Any person who,—

(a) having in his possession, custody or control any property forming part of the Mokameh unit, or any of the undertakings owned by Arthur Butler and Company, wrongfully withholds such property from the Central Government or the Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of, the Mokameh unit, or any of the undertakings owned by Arthur Butler and Company; or

(c) wilfully withholds or fails to furnish to the Central Government or the Government company or any person or body of persons specified by that Government or the Government company, as the case may be, any document relating to the Mokameh unit, or any of the undertakings owned by Arthur Butler and Company, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the Government company or any person or body of persons specified by that Government or the Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the Mokameh unit, or any of the undertakings owned by Arthur Butler and Company; or

(e) wrongfully removes or destroys any property forming part of the Mokameh unit, or any of the undertakings owned by Arthur Butler and Company or prefers any claim under this Act which he knows or has reason to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

28. (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 had 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 or other association of individuals; and

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

Protection of action taken in good faith.

29. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Government company or other person authorised by that Government or the Government company for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or any officer or other person authorised by that company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

30. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by sections 31 and 32, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Power to make rules.

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the time within which, and the manner in which, an intimation referred to in sub-section (3) of section 4 shall be given;

(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 14 shall be dealt with;

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

(3) 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 immediately following the session 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 to remove difficulties.

32. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

Declaration as to the policy of the State.

33. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

THE FIRST SCHEDULE

(*See* sections 4, 7, 8 and 16)

S. No.	Name of the company	Amount (Rupees in lakhs)
1	The Britannia Engineering Company	152.85
2	Arthur Butler and Company	137.70

THE SECOND SCHEDULE

(*See* sections 19, 20, 21 and 23)

ORDER OF PRIORITIES

Category I

(*i*) Employees' dues on account of arrears of tripartite settlement for the period from the 1st day of January, 1975 to the 31st day of May, 1975.

(*ii*) Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premium relating to Life Insurance Corporation of India.

Category II

Secured loans from nationalised banks and secured loans from Industrial Reconstruction Corporation of India for the post-take-over management period.

Category III

Central Government loans for the post-take-over management period.

Category IV

Secured loans from nationalised banks and secured loans from financial institutions for the pre-take-over management period.

Category V

Revenue, taxes, cesses, rates or other dues to Central Government, State Government and local authorities or State Electricity Board for the pre-take-over management period.

Category VI

Trade and other creditors for the pre-take-over management period.

THE BOLANI ORES LIMITED (ACQUISITION OF SHARES) AND MISCELLANEOUS PROVISIONS ACT, 1978

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THE BOLANI ORES LIMITED (ACQUISITION OF SHARES) AND MISCELLANEOUS PROVISIONS ACT, 1978

No. 42 OF 1978

[*8th December*, 1978.]

An Act to provide for the acquisition of shares of the Bolani Ores Limited in public interest in order to serve better the needs of the nation and to facilitate the promotion and development in the interests of the general public, of national steel industry and for matters connected therewith or incidental thereto.

WHEREAS Bolani Ores Limited was incorporated as a private limited company in June, 1957 for supplying ores mainly to the Durgapur Steel Plant;

WHEREAS 50.5 per cent. shares in the share capital of the said Bolani Ores Limited are held by the Steel Authority of India Limited, a wholly owned Government company and the remaining 49·5 per cent. shares are held by the Orissa Minerals Development Company Limited;

WHEREAS cumulative losses suffered by the said Bolani Ores Limited at the end of 1977-78 were to the extent of over Rs. 270 lakhs and the said Bolani Ores Limited is in need of urgent funds to carry on the operations of its undertakings;

AND WHEREAS the Orissa Minerals Development Company is not willing to contribute any further amount towards the share capital of the Bolani Ores Limited;

AND WHEREAS the Bolani Ores Limited is the main source of supply of iron ores to the Durgapur Steel Plant and without further substantial investments by way of capital outlay and otherwise the supply of iron ores to the said Plant cannot be maintained;

AND WHEREAS it is expedient in the public interest that the shares of the said Bolani Ores Limited should be acquired;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Bolani Ores Limited (Acquisition of Shares) and Miscellaneous Provisions Act, 1978.

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

Definitions.

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

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

(b) "Bolani Ores Limited" means the Bolani Ores Company Limited, a company formed and registered under the Companies Act and having its registered office at Chartered Bank Buildings in Calcutta in the State of West Bengal;

(c) "Companies Act" means the Companies Act, 1956; 1 of 1956.

(d) "dissolved company" means the Bolani Ores Limited dissolved by virtue of section 6;

(e) "the Company" means the Orissa Minerals Development Company Limited, a company formed and registered under the Companies Act and having its registered office at Chartered Bank Buildings, Calcutta in the State of West Bengal;

(f) "Steel Authority of India" means the Steel Authority of India Limited, a company formed and registered under the Companies Act and having its registered office at New Delhi.

(2) Save as provided in section 14, the words and expressions used herein and not defined but defined in the Companies Act have the meanings respectively assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF SHARES OF BOLANI ORES LIMITED

Vesting in the Central Government of the shares held by the Company.

3. (1) On the appointed day, all the shares held by the Company in the share capital of the Bolani Ores Limited shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

(2) All the shares which have vested in the Central Government under sub-section (1) shall, by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment or injunction or any decree or order of any court, tribunal or other authority restricting the use of such shares in any manner shall be deemed to have been withdrawn.

4. (*1*) For the transfer to, and vesting in, the Central Government under section 3 of the shares held by the Company in the Bolani Ores Limited, the Central Government shall, within thirty days from the appointed day, pay to the Company in cash an amount of forty-nine thousand five hundred rupees.

Payment of amount to the Company.

(*2*) Where the Central Government fails to pay to the Company the amount specified in sub-section (*1*) within the period specified in that sub-section, the Central Government shall pay on the said amount simple interest at the rate of six per cent. per annum from the appointed day till the date of payment.

5. (*1*) All the shares held by the Company in the Bolani Ores Limited which have vested in the Central Government by virtue of section 3 shall, immediately after they have so vested, stand transferred to, and shall vest in, the Steel Authority of India.

Allocation of shares to the Steel Authority of India.

(*2*) The amount paid by the Central Government for the shares which stand transferred to, and vested in, the Steel Authority of India under sub-section (*1*) shall be deemed to be the contribution by the Central Government to the equity capital of the Steel Authority of India and the Steel Authority of India shall issue (if necessary, after amending its memorandum and articles of association) to the Central Government forty-nine fully paid-up shares of the face value of one thousand rupees each and pay to that Government five hundred rupees in cash.

CHAPTER III

VESTING OF UNDERTAKINGS IN THE STEEL AUTHORITY OF INDIA AND DISSOLUTION OF BOLANI ORES LIMITED

6. On the appointed day—

Vesting of undertakings in the Steel Authority of India and dissolution of Bolani Ores Limited.

(*a*) all the undertakings of the Bolani Ores Limited, the shares of which have vested in the Steel Authority of India by virtue of section 5, shall stand transferred to, and shall vest in, the Steel Authority of India;

(*b*) the Bolani Ores Limited shall stand dissolved.

7. For the purposes of this Act, the undertakings of the dissolved company shall be deemed to include all assets, rights, lease-holds (including mining leases), industrial or other licences, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, equipment, cash or bank balances, cash in hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the dissolved company and all books of account, registers, maps, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind of the dissolved company.

"Undertaking"—meaning of.

CHAPTER IV

PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

Provisions relating to officers and other employees of dissolved company.

8. (*1*) Every officer (not being a director) or other employee holding office immediately before the appointed day in the dissolved company in relation to any undertaking of such company, shall, as from the appointed day, continue to hold office as such in respect of the undertaking vested in the Steel Authority of India by virtue of section 6, by the same tenure and upon the same terms and conditions of service and with the same rights and privileges as to retirement benefits as would have been admissible to him if the company in which he was holding office had not been dissolved and shall continue to do so unless and until such tenure and terms and conditions are duly altered by the Steel Authority of India.

(*2*) Notwithstanding anything contained in sub-section (*1*), rules relating to the conditions of service and Standing Orders applicable to the officers or other employees referred to in sub-section (*1*), as immediately before the appointed day, shall continue to apply unless and until they are duly altered by the Steel Authority of India.

Provisions relating to directors.

9. Every person holding office as a director of the dissolved company immediately before the appointed day shall, on that day, cease to hold office as such director.

Provision relating to auditors.

10. Every person appointed under section 619 of the Companies Act as an auditor of the dissolved company holding office immediately before the appointed day, may continue to hold office as such auditor in relation to the undertakings of the dissolved company which stand vested in the Steel Authority of India by virtue of section 6, for the duration for which he was so appointed, on the same terms and conditions as were applicable to him immediately before the appointed day.

Directors, etc., not entitled to compensation.

11. (*1*) Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act or other person entitled to manage the whole or a substantial part of the business and affairs of the undertakings of the dissolved company under a special agreement or otherwise shall be entitled to any compensation against the dissolved company or the Central Government or the Steel Authority of India for the loss of office or for the premature termination of any contract of management entered into by him with the dissolved company whether such loss or termination was due to the provisions of this Act.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the provisions of sub-section (*1*) of section 8 shall not entitle any officer or other employee referred to in that sub-section to any compensation under that Act or under any other law for the time being in force and no claim for such compensation shall be entertained by any court, tribunal or other authority.

12. Where a provident fund has been established by the dissolved company for the benefit of the employees and the same stands vested in a trust, the monies and other assets standing to the credit of such provident fund shall continue to be held in trust with the same objects as were applicable before the appointed day and the trustees of such trusts functioning immediately before the appointed day shall, subject to the provisions of the trust deeds and the rules relating to such trusts, continue to function as trustees in respect of such provident fund maintained in relation to the undertakings of the dissolved company which stand vested in the Steel Authority of India by virtue of section 6, as if this Act had not been passed:

Provided that the right to nominate trustees and other rights relating to the trust vested in the dissolved company shall vest in the Steel Authority of India.

Gratuity, welfare fund and other funds.

13. Where any gratuity, welfare fund or other fund has been established by the dissolved company for the benefit of its employees and is in existence immediately before the appointed day, all monies and other assets standing to the credit of or relatable to such gratuity, welfare fund or other fund shall vest in the Steel Authority of India.

CHAPTER V

FINANCIAL PROVISIONS

Provisions with respect to income-tax and surtax.

14. (*1*) The Steel Authority of India shall be liable to pay any sum under the provisions of the Income-tax Act or the Companies (Profits) Surtax Act which the dissolved company would have been liable to pay if the dissolution had not taken place, in the like manner and to the same extent as the dissolved company.

(*2*) For the purpose of making an assessment of the income or, as the case may be, the chargeable profits of the dissolved company and for the purpose of levying any sum in accordance with the provisions of sub-section (*1*),—

(*a*) any proceeding taken against the dissolved company before the appointed day shall be deemed to have been taken against the Steel Authority of India and may be continued against the Steel Authority of India from the stage at which it stood immediately before the appointed day;

(*b*) any proceeding which could have been taken against the dissolved company, if the dissolution had not taken place, may be taken against the Steel Authority of India; and

(*c*) all the provisions of the Income-tax Act or, as the case may be, the Companies (Profits) Surtax Act shall apply accordingly.

(*3*) The assessment of the income or, as the case may be, the chargeable profits of the previous year of the dissolved company up to the appointed day shall be made as if such dissolution had not taken place and all the provisions of the Income-tax Act or, as the case may be, the Companies (Profits) Surtax Act shall, so far as may be, apply accordingly.

(4) The transfer and vesting of the undertakings of the dissolved company in the Steel Authority of India under the provisions of this Act shall be deemed to be an amalgamation in relation to the dissolved company and the Steel Authority of India and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if references in the said Act to the amalgamating company and the amalgamated company were references to the dissolved company and the Steel Authority of India respectively.

(5) The accumulated loss and the unabsorbed depreciation, if any, of the dissolved company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the Steel Authority of India for the previous year in which the amalgamation referred to in sub-section (4) has taken place and the provisions of the Income-tax Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

(6) The provisions of sub-sections (1) to (5) shall have effect notwithstanding anything to the contrary contained in the Income-tax Act or the Companies (Profits) Surtax Act.

Explanation.—For the purposes of this section,—

(a) "Income-tax Act" means the Income-tax Act, 1961; 43 of 1961

(b) "Companies (Profits) Surtax Act" means the Companies (Profits) Surtax Act, 1964; 7 of 1964.

(c) words and expressions used in this section and not defined in this Act but defined in the Income-tax Act or the Companies (Profits) Surtax Act shall have the meanings respectively assigned to them in the said Acts.

Taxes, fees and other charges not payable.

15. For the removal of doubts, it is hereby declared that no taxes, duties, fees or other charges of whatever nature (including registration charges), shall be payable in respect of any transfer of shares or transfer of undertakings or transfer of any immovable property, under the provisions of this Act.

CHAPTER VI

MISCELLANEOUS

Duty to deliver possession of properties, etc.

16. (1) Where any property appertaining to any of the undertakings of the dissolved company has been transferred to, and vested in, the Steel Authority of India,—

(a) every person in whose possession, custody or control any such property may be, shall, on demand by the Steel Authority of India, forthwith deliver the property to the Steel Authority of India or to such person as the Steel Authority of India may authorise in this behalf;

(b) any person who, immediately before such vesting, has, in his possession, custody or control, any books, documents or other papers relating to any of the undertakings of the dissolved company shall be liable to account for the said books, documents and papers to the

Steel Authority of India and shall deliver them to the Steel Authority of India or to such person as the Steel Authority of India may authorise in this behalf.

(2) Without prejudice to the other provisions contained in this section, it shall be lawful for the Steel Authority of India to take all necessary steps for taking possession of all properties, which have been transferred to, and vested in, it under this Act.

Penalties.

17. Any person who,—

(*a*) having in his possession, custody or control any property forming part of the dissolved company wrongfully withholds such property from the Steel Authority of India; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of any of the undertakings of the dissolved company; or

(*c*) wilfully withholds or fails to furnish to the Steel Authority of India or any person authorised by it any books, documents or other papers relating to any of the undertakings of the dissolved company which may be in his possession, custody or control; or

(*d*) fails to deliver to the Steel Authority of India or to a person authorised by it, any assets, books of account, registers or other documents in his possession, custody or control relating to any of the undertakings of the dissolved company; or

(*e*) wrongfully removes or destroys any property forming part of any of the undertakings of the dissolved company; or

(*f*) wrongfully uses any property forming part of any of the undertakings of the dissolved company,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

18. (*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 had 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 or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith.

19. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Steel Authority of India or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

Cognizance of offences.

20. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no Court shall take cognizance of any offence under this Act except on a complaint, in writing, made by the Central Government or any officer authorised in this behalf by that Government. 2 of 1974.

Saving of contracts, etc.

21. All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party subsisting or having effect immediately before the appointed day, shall, as from that day, be of full force and effect against, or, as the case may be, in favour of, the Steel Authority of India and may be enforced as fully and effectually as if, instead of the dissolved company, the Steel Authority of India had been a party thereto.

Saving of legal proceedings.

22. If, on the appointed day, there is pending any suit, arbitration, appeal or other legal proceeding of whatever nature by or against the dissolved company, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertakings of the dissolved company or of anything contained in this Act, but the suit, arbitration, appeal or other proceeding may be continued, prosecuted and enforced by or against the Steel Authority of India in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

Board of Directors of the Steel Authority of India to adopt accounts of dissolved company.

23. (*1*) The accounts of the dissolved company shall stand closed on the appointed day and the balance-sheet and the profit and loss accounts for the current financial year up to the appointed day shall be prepared and audited in accordance with the provisions of the Companies Act.

(*2*) Notwithstanding the provisions in the Companies Act, the Board of Directors of the Steel Authority of India shall be deemed to be the Board of Directors of the dissolved company and the shareholders of the Steel Authority of India shall be deemed to be the shareholders of the dissolved company for the purpose of adoption of the accounts, directors' report and completion of other formalities in accordance with the provisions of the Compaines Act in this regard.

Transfer of documents relating to the dissolved company.

24. (*1*) The Registrar of Companies with whom the dissolved company is registered shall, as soon as may be after the appointed day, transfer all documents relating to the dissolved company to the Registrar of Companies, New Delhi.

(2) The Registrar of Companies, New Delhi, on receipt of the documents relating to the dissolved company, shall add those documents to the file maintained by him in relation to the Steel Authority of India, and shall consolidate the files relating to the dissolved company and the Steel Authority of India and the documents filed by the dissolved company shall, for the purposes of the Companies Act, be deemed to have been filed by the Steel Authority of India in relation to the business of the undertakings of the dissolved company which stands transferred to and vested in the Steel Authority of India by virtue of section 6.

25. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary, for the removal of the difficulty: Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

26. The provisions of this Act or of any order made thereunder shall have effect notwithstanding anything contained in the Companies Act or in any other law for the time being in force or in any contract, express or implied, or in any rules or regulations having effect by virtue of any law other than this Act. Act to override the provisions of other laws.

27. (1) For the purpose of giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, make amendments in the memorandum or articles of association, or both of the Steel Authority of India. Power to amend memorandum and articles of association.

(2) Any amendments in the memorandum or articles of association of the Steel Authority of India made in pursuance of sub-section (1) shall have effect notwithstanding anything contained in the Companies Act.

28. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act. Power to make rules.

(2) 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 immediately following the session 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.

संशोधन नहीं किया गया
देखिए भारत संहिता.....
जिल्द 3 B ...भाग 4 .... पृष्ठ 1153
Not Corrected See India Code
Vol. III-B Pt. IV ..... p. 1153

THE PRIZE CHITS AND MONEY CIRCULATION SCHEMES (BANNING) ACT, 1978

No. 43 OF 1978

[*12th December*, 1978.]

An Act to ban the promotion or conduct of prize chits and money circulation schemes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

Definitions.

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

(*a*) "conventional chit" means a transaction whether called chit, chit fund, *kuri* or by any other name by or under which a person responsible for the conduct of the chit enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or certain quantity of grain instead) by way of periodical instalments for a definite period and that each such subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be provided for in the chit agreement, be entitled to a prize amount.

Explanation.—In this clause "prize amount" shall mean the amount, by whatever name called, arrived at by deducting from out of the total amount paid or payable at each instalment by all the subscribers,

(*i*) the commission charged as service charges as a promoter or a foreman or an agent; and

(*ii*) any sum which a subscriber agrees to forego, from out of the total subscriptions of each instalment, in consideration of the balance being paid to him;

(*b*) "money" includes a cheque, postal order, demand draft, telegraphic transfer or money order;

(*c*) "money circulation scheme" means any scheme, by whatever name called, for the making of quick or easy money, or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions;

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

(*e*) "prize chit" includes any transaction or arrangement by whatever name called under which a person collects whether as a promoter, foreman, agent or in any other capacity, monies in one lump sum or in instalments by way of contributions or subscriptions or by sale of units, certificates or other instruments or in any other manner or as membership fees or admission fees or service charges to or in respect of any savings, mutual benefit, thrift, or any other scheme or arrangement by whatever name called, and utilises the monies so collected or any part thereof or the income accruing from investment or other use of such monies for all or any of the following purposes, namely:—

(*i*) giving or awarding periodically or otherwise to a specified number of subscribers as determined by lot, draw or in any other manner, prizes or gifts in cash or in kind, whether or not the recipient of the prize or gift is under a liability to make any further payment in respect of such scheme or arrangement;

(*ii*) refunding to the subscribers or such of them as have not won any prize or gift, the whole or part of the subscriptions, contributions or other monies collected, with or without any bonus, premium, interest or other advantage by whatever name called, on the termination of the scheme or arrangement, or on or after the expiry of the period stipulated therein,

but does not include a conventional chit;

(*f*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.

2 of 1934.

Banning of prize chits and money circulation schemes or enrolment as members or participation therein.

3. No person shall promote or conduct any prize chit or money circulation scheme, or enrol as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme.

Penalty for contravening the provisions of section 3.

4. Whoever contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

Penalty for other offences in connection with prize chits or money circulation schemes.

5. Whoever, with a view to the promotion or conduct of any prize chit or money circulation scheme in contravention of the provisions of this Act or in connection with any chit or scheme promoted or conducted as aforesaid,—

(*a*) prints or publishes any ticket, coupon or other document for use in the prize chit or money circulation scheme; or

(*b*) sells or distributes or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution any ticket, coupon or other document for use in the prize chit or money circulation scheme; or

(*c*) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—

(*i*) any advertisement of the prize chit or money circulation scheme; or

(*ii*) any list, whether complete or not, of members in the prize chit or money circulation scheme; or

(*iii*) any such matter descriptive of, or otherwise relating to the prize chit or money circulation scheme, as is calculated to act as an inducement to persons to participate in that prize chit or money circulation scheme or any other prize chit or money circulation scheme; or

(*d*) brings, or invites any person to send, for the purpose of sale or distribution, any ticket, coupon or other document for use in a prize chit or money circulation scheme or any advertisement of such prize chit or money circulation scheme; or

(*e*) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the prize chit or money circulation scheme; or

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(f) causes or procures or attempts to procure any person to do any of the above-mentioned acts,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

Offences by companies.

6. (*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 provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section—

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

(*b*) "director", in relation to a firm, means a partner in the firm.

Power to enter, search and seize.

7. (*1*) It shall be lawful for any police officer not below the rank of an officer in charge of a police station,—

(*a*) to enter, if necessary by force, whether by day or night with such assistance as he considers necessary, any premises which he has reason to suspect, are being used for purposes connected with the promotion or conduct of any prize chit or money circulation scheme in contravention of the provisions of this Act;

(*b*) to search the said premises and the persons whom he may find therein;

(*c*) to take into custody and produce before any Judicial Magistrate all such persons as are concerned or against whom a complaint has been made or credible information has been received or a reasonable suspicion exists of their having been concerned with the use of the said premises for purposes connected with, or with the promotion or conduct of, any such prize chit or money circulation scheme as aforesaid;

(*d*) to seize all things found in the said premises which are intended to be used, or reasonably suspected to have been used, in connection with any such prize chit or money circulation scheme as aforesaid.

(2) Any officer authorised by the State Government in this behalf may—

(*a*) at all reasonable times, enter into and search any premises which he has reason to suspect, are being used for the purposes connected with, or conduct of, any prize chit or money circulation scheme in contravention of the provisions of this Act;

Offences by companies.

(*b*) examine any person having the control of, or employed in connection with, any such prize chit or money circulation scheme;

(*c*) order the production of any documents, books or records in the possession or power of any person having the control of, or employed in connection with, any such prize chit or money circulation scheme; and

(*d*) inspect and seize any register, books of accounts, documents or any other literature found in the said premises.

(3) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973. 2 of 197

Forfeiture of newspaper and publication containing prize chit or money circulation scheme.

8. Where any newspaper or other publication contains any material connected with any prize chit or money circulation scheme promoted or conducted in contravention of the provisions of this Act or any advertisement in relation thereto, the State Government may, by notification in the Official Gazette, declare every copy of the newspaper and every copy of the publication containing such material or the advertisement to be forfeited to the State Government.

Power to try offences.

9. No court inferior to that of a Chief Metropolitan Magistrate, or as the case may be, Chief Judicial Magistrate, shall try any offence punishable under this Act.

Offences under this Act to be cognizable.

10. All offences punishable under this Act shall be cognizable.

Act not to apply to certain prize chits or money circulation schemes.

11. Nothing contained in this Act shall apply to any prize chit or money circulation scheme promoted by—

(*a*) a State Government or any officer or authority on its behalf; or

(*b*) a company wholly owned by a State Government which does not carry on any business other than the conducting of a prize chit or money circulation scheme whether it is in the nature of a conventional chit or otherwise; or

(*c*) a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949, or a banking institution notified by the Central Government under section 51 of that Act or the State Bank of India constituted under section 3 of the State 10 of 1

23 of 1955. 38 of 1959. 5 of 1970. 21 of 1976. 2 of 1934.

Bank of India Act, 1955, or a subsidiary bank constituted under section 3 of the State Bank of India (Subsidiary Banks) Act, 1959, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or a co-operative bank as defined in clause (*bii*) of section 2 of the Reserve Bank of India Act, 1934; or

(*d*) any charitable or educational institution notified in this behalf by the State Government, in consultation with the Reserve Bank.

Transitional provisions.

12. (*1*) Notwithstanding anything contained in this Act, a person conducting a prize chit or money circulation scheme at the commencement of this Act may continue to conduct such chit or scheme for such period as may be necessary for the winding up of the business relating to such chit or scheme, so however that such period shall not in any case extend beyond a period of two years from such commencement:

Provided that the said person shall furnish to the State Government or to such officer as may be authorised by it in this behalf and to such office of the Reserve Bank as may be prescribed in such form and within such period as may be prescribed, full information regarding the chit or scheme along with a winding up plan prepared in accordance with the provisions of any rules that may be made by the State Government in this behalf under this Act:

Provided further that if the State Government is satisfied, on an application made by the person conducting the prize chit or money circulation scheme, that the chit or scheme cannot be wound up within the period fixed in the winding up plan furnished to the State Government under the foregoing proviso, it may, in consultation with the Reserve Bank, permit such person to continue to conduct the business relating to the said chit or scheme for such further period as may be considered necessary having regard to the circumstances of the case and the interests of the members of the said chit or scheme.

(*2*) The State Government may, in consultation with the Reserve Bank, approve the winding up plan furnished under sub-section (*1*) with or without modifications or reject the same and may grant or refuse to grant permission to continue to conduct that chit or scheme:

Provided that no such winding up plan shall be modified or rejected without giving an opportunity of being heard to the person who conducts such prize chit or money circulation scheme.

(*3*) If any person fails to furnish full information regarding the said chit or scheme along with its winding up plan in the form and within the period prescribed, he shall forfeit his right to continue the business relating to the said chit or scheme on the expiry of such period.

(*4*) Notwithstanding anything to the contrary contained in any agreement or arrangement entered into between any person conducting any such chit or scheme and the subscriber, the person conducting the chit or scheme shall, within such period as may be prescribed, refund the monies or the subscriptions collected till the date of default referred to in sub-section (*3*).

(5) If any person fails to comply with the provisions of sub-section (4), he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

Power to make rules.

13. (*1*) The State Government may, by notification in the Official Gazette and in consultation with the Reserve Bank, make rules for the purpose of carrying out the provisions of this Act.

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

(*a*) the office of the Reserve Bank to whom full information regarding any prize chit or money circulation scheme may be furnished under the first proviso to sub-section (*1*) of section 12, and the form in which and the period within which such information may be furnished;

(*b*) the particulars relating to the winding up plan of the business relating to prize chits or money circulation schemes.

Repeals and saving.

14. (*1*) The Andhra Pradesh Money Circulation Scheme (Prohibition) Act, 1965, as in force in the State of Andhra Pradesh, and in the Union territory of Chandigarh and the Madhya Pradesh Dhan Parichalan Skeem (Pratishedh) Adhiniyam, 1975, are hereby repealed.

Andhra Pradesh Act 30 of 1965

Madhya Pradesh Act 19 of 1975.

(*2*) Notwithstanding the repeal of any Act referred to in sub-section (*1*), anything done or any action taken under the provisions of any such Act shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

THE WATER (PREVENTION AND CONTROL OF POLLUTION) AMENDMENT ACT, 1978

No. 44 OF 1978

[12*th December*, 1978.]

An Act to amend the Water (Prevention and Control of Pollution) Act, 1974.

WHEREAS, in pursuance of clause (1) of article 252 of the Constitution, the Water (Prevention and Control of Pollution) Act, 1974, had been passed by Parliament;

AND WHEREAS from the practical experience gained in the working of the aforesaid Act it is considered necessary to make certain amendments thereto;

AND WHEREAS, in pursuance of clause (1) of article 252 of the Constitution read with clause (2) thereof, resolutions have been passed by the Legislative Assemblies of the States of Assam, Haryana and West Bengal to the effect that the said Act should be amended by an Act of Parliament for the purposes hereinafter appearing;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title, application and commencement.

1. (*1*) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 1978.

(*2*) It applies, in the first instance, to the whole of the States of Assam, Haryana and West Bengal and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution read with clause (2) thereof.

(*3*) It shall come into force, at once in the States of Assam, Haryana and West Bengal and the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution read with clause (2) thereof on the date of such adoption and any reference

in section 22 of this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory.

Amendment of section 2.

2. In section 2 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act),— 6 of 1974.

(*a*) after clause (*d*), the following clause shall be inserted, namely:—

'(*dd*) "outlet" includes any conduit pipe or channel, open or closed, carrying sewage or trade effluent or any other holding arrangement which causes, or is likely to cause, pollution;';

(*b*) after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "sewer" means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;'.

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (*2*),—

(*a*) in clause (*a*), for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(*b*) in clause (*b*), for the words "five officials", the words "such number of officials, not exceeding five," shall be substituted;

(*c*) in clause (*d*), for the words "three non-officials", the words "such number of non-officials, not exceeding three," shall be substituted;

(*d*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in respect of matters relating to environmental protection" shall be substituted.

Amendment of section 4.

4. In section 4 of the principal Act,—

(*a*) in sub-section (*1*), the brackets and words "(being a date not later than six months of the commencement of this Act in the State)" shall be omitted and shall be deemed always to have been omitted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*),—

(*1*) the word "full-time" shall be omitted;

(*2*) for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(3) the following proviso shall be inserted at the end, namely:—

"Provided that the chairman may be either whole-time or part-time as the State Government may think fit;";

(ii) in clause (b), for the words "five officials", the words "such number of officials, not exceeding five," shall be substituted;

(iii) in clause (c), for the words "five persons", the words "such number of persons, not exceeding five," shall be substituted;

(iv) in clause (d), for the words "three non-officials", the words "such number of non-officials, not exceeding three," shall be substituted;

(v) in clause (f), for the words "and having administrative experience", the words "and having practical experience in matters relating to environmental protection" shall be substituted.

Amendment of section 5.

5. In section 5 of the principal Act,—

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

"(2) The term of office of a member of a Board nominated under clause (b) or clause (e) of sub-section (2) of section 3 or clause (b) or clause (e) of sub-section (2) of section 4 shall come to an end as soon as he ceases to hold the office under the Central Government or the State Government or, as the case may be, the company or corporation owned, controlled or managed by the Central Government or the State Government, by virtue of which he was nominated.";

(b) in sub-section (5), for the words, brackets, letters and figures "or where he is nominated under clause (c) of sub-section (2) of section 3 or under clause (c) of sub-section (2) of section 4, if he ceases to be a member of the State Board, or as the case may be, of the local authority", the following shall be substituted, namely:—

"or where he is nominated under clause (c) or clause (e) of sub-section (2) of section 3 or under clause (c) or clause (e) of sub-section (2) of section 4, if he ceases to be a member of the State Board or of the local authority or, as the case may be, of the company or corporation owned, controlled or managed by the Central Government or the State Government and such vacation of seat shall, in either case, take effect from such date as the Central Government or, as the case may be, the State Government may, by notification in the Official Gazette, specify".

Amendment of section 10.

6. In section 10 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) A person associated with the Board under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board, as may be prescribed.".

Insertion of new section 11A.

7. After section 11 of the principal Act, the following section shall be inserted, namely:—

Delegation of powers to Chairman.

"11A. The Chairman of a Board shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board.".

Amendment of section 12.

8. In section 12 of the principal Act,—

(*a*) in sub-section (*3*), the words "and the rules so made may provide for the salaries and allowances and other terms and conditions of service of such officers and employees" shall be omitted;

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

"(*3A*) The method of recruitment and the terms and conditions of service (including the scales of pay) of the officers (other than the member-secretary) and other employees of the Central Board or a State Board shall be such as may be determined by regulations made by the Central Board or, as the case may be, by the State Board:

Provided that no regulation made under this sub-section shall take effect unless,—

(*a*) in the case of a regulation made by the Central Board, it is approved by the Central Government; and

(*b*) in the case of a regulation made by a State Board, it is approved by the State Government.".

Amendment of section 14.

9. In section 14 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(*ii*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in respect of matters relating to environmental protection" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*), for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(*ii*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in respect of matters relating to environmental protection" shall be substituted.

Amendment of section 21.

10. In section 21 of the principal Act, for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(4) When a sample of any sewage or trade affluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3) and the occupier or his agent wilfully absents himself, then,—

(a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the Government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of section 53, in writing about the wilful absence of the occupier or his agent; and

(b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent and in case of default of such payment, the same shall be recoverable from the occupier or his agent, as the case may be, as an arrear of land revenue or of public demand:

Provided that no such recovery shall be made unless the occupier or, as the case may be, his agent has been given a reasonable opportunity of being heard in the matter.".

11. In section 23 of the principal Act, in sub-section (2),— Amendment of section 23.

(a) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898. 2 of 1974.

(b) for the word and figures "section 98", the word and figures "section 94" shall be substituted.

12. In section 25 of the principal Act,— Amendment of section 25.

(a) in sub-section (1), for the words "stream or well" at both the places where they occur, the words "stream or well or sewer or on land" shall be substituted;

(b) in sub-section (2), after the words, brackets and figure "under sub-section (1)", the words "shall be accompanied with such fees as may be prescribed and" shall be inserted;

(c) in sub-section (4), in clause (a), for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted;

(d) in sub-section (5), for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted.

13. In section 26 of the principal Act,— Amendment of section 26.

(a) for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted;

(b) for the words "shall be made within a period of three months of the constitution of the State Board", the words "shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette" shall be substituted.

Amendment of section 27.

14. In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A State Board may from time to time review—

(a) any condition imposed under section 25 (other than a condition to be satisfied before an outlet is brought into use or a new discharge is made), or section 26 and may serve on the person using the outlet or making the discharge, as the case may be, a notice, making any reasonable variation of or revoking any such condition;

(b) the refusal of any consent referred to in sub-section (1) of section 25 or section 26 or the grant of such consent without any condition, and may make such orders as it deems fit.".

Amendment of section 28.

15. In section 28 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) An appellate authority shall consist of a single person or three persons, as the State Government may think fit, to be appointed by that Government.".

Amendment of section 36.

16. In section 36 of the principal Act,—

(a) in sub-section (1), after the word "benefactions", the word ", fees" shall be inserted;

(b) in sub-section (2), after the words "under this Act", the words "and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the Central Board, also for performing its functions under such law" shall be inserted.

Amendment of section 37.

17. In section 37 of the principal Act,—

(a) in sub-section (1), after the word "benefactions", the word ", fees" shall be inserted;

(b) in sub-section (2), after the words "under this Act", the words "and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the State Board, also for performing its functions under such law" shall be inserted.

Amendment of section 39.

18. In section 39 of the principal Act, in sub-section (1), for the words "six months", the words "nine months" shall be substituted.

Amendment of section 49.

19. In section 49 of the principal Act,—

(a) in sub-section (1), for the words "Presidency Magistrate or a Magistrate", the words "Metropolitan Magistrate or a Judicial Magistrate" shall be substituted;

(b) in sub-section (2),—

(i) for the words and figures "section 32 of the Code of Criminal Procedure, 1898", the words and figures "section 29 of the Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898. 2 of 1974.

(*ii*) for the words "Magistrate of the first class or for any Presidency Magistrate", the words "Judicial Magistrate of the first class or for any Metropolitan Magistrate" shall be substituted.

Amendment of section 63.

20. In section 63 of the principal Act,—

(*a*) in sub-section (*2*),—

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

"(*d*) the manner in which and the purposes for which persons may be associated with the Central Board under sub-section (*1*) of section 10 and the fees and allowances payable to such persons;";

(*ii*) clauses (*h*) and (*i*) shall be omitted;

(*b*) in sub-section (*3*), for the words "before the expiry of the session in which it is so laid or the successive sessions aforesaid", the words "before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Amendment of section 64.

21. In section 64 of the principal Act, in clause (*d*) of sub-section (*2*), the words "and the fees and allowances payable to such persons" shall be inserted at the end.

Validation.

22. Notwithstanding anything contained in section 4 of the principal Act, as it stood immediately before the commencement of this Act, every State Board for the prevention and control of water pollution constituted under that section after the expiry of a period of six months of the commencement of the principal Act in the State concerned, shall be deemed to have been validly constituted and accordingly anything done or any action taken by such State Board before the commencement of this Act shall be deemed to have been validly done or taken and no such thing or action shall be called in question in any court merely on the ground that such State Board was constituted after the expiry of the period specified therefor under the said section 4.

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1978

No. 45 OF 1978

[18th December, 1978.]

An Act further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1978.

Amendment of section 2.

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), in section 2, in clause (*j*), the words "and such local area may comprise the whole of the State, or any part of the State, as the State Government may, by notification, specify" shall be inserted at the end. 2 of 1974.

Amendment of section 11.

3. In section 11 of the principal Act, to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.".

4. In section 13 of the principal Act,— Amendment of section 13

(*i*) in sub-section (*1*), for the words "of the second class, in respect to particular cases or to particular classes of cases or to cases generally, in any district, not being a metropolitan area:", the words "of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area, not being a metropolitan area:" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) The High Court may empower a Special Judicial Magistrate to exercise the powers of a Metropolitan Magistrate in relation to any metropolitan area outside his local jurisdiction.".

5. In section 14 of the principal Act,— Amendment of section 14.

(*a*) to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that the Court of a Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Where the local jurisdiction of a Magistrate, appointed under section 11 or section 13 or section 18, extends to an area beyond the district, or the metropolitan area, as the case may be, in which he ordinarily holds Court, any reference in this Code to the Court of Session, Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session, Chief Judicial Magistrate, or Chief Metropolitan Magistrate, as the case may be, exercising jurisdiction in relation to the said district or metropolitan area.".

6. In section 18 of the principal Act,— Amendment of section 18.

(*i*) in sub-section (*1*), the words "or to cases generally" shall be omitted;

(*ii*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The High Court or the State Government, as the case may be, may empower any Special Metropolitan Magistrate to exercise, in any local area outside the metropolitan area, the powers of a Judicial Magistrate of the first class.".

REPEALED

Amendment of section 20.

7. In section 20 of the principal Act, in sub-section (2),—

(a) for the words "all or any", the word "such" shall be substituted;

(b) after the words "in force", the words ", as may be directed by the State Government" shall be inserted.

Substitution of new section for section 24.

8. For section 24 of the principal Act, the following section shall be substituted, namely:—

Public Prosecutors.

"24. (1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case or class of cases in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything contained in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

REPEALED

(*8*) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor.

(*9*) For the purposes of sub-section (*7*) and sub-section (*8*), the period during which a person has been in practice as a pleader, or has rendered (whether before or after the commencement of this Code) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.".

9. In section 25 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely: — Amendment of section 25.

"(*1A*) The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases in the Courts of Magistrates.".

10. In section 102 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— Amendment of section 102.

"(*3*) Every police officer acting under sub-section (*1*) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same.".

11. In section 107 of the principal Act, in sub-section (*1*), after the words "ordered to execute a bond,", the words "with or without sureties," shall be inserted. Amendment of section 107.

12. In section 123 of the principal Act,— Amendment of section 123.

(*i*) in sub-section (*1*), for the words "the Chief Judicial Magistrate", the words and figures "the District Magistrate in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case" shall be substituted;

(*ii*) in sub-sections (*2*), (*5*), (*6*), (*7*) and (*9*), for the words "Chief Judicial Magistrate", wherever they occur, the words and figures "District Magistrate, in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case" shall be substituted.

13. In section 167 of the principal Act, in the proviso to sub-section (*2*),— Amendment of section 167.

(*a*) for paragraph (*a*), the following paragraph shall be substituted, namely:—

"(*a*) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention

REPEALED

of the accused person in custody under this paragraph for a total period exceeding,—

(*i*) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(*ii*) sixty days, where the investigation relates to any other offence,

and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;";

(*b*) the *Explanation* shall be numbered as *Explanation II*, and before *Explanation II*, as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation I.*—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (*a*), the accused shall be detained in custody so long as he does not furnish bail.";

(*c*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (*a*) of the proviso to sub-section (*2*):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted

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to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.".

14. The provisions of section 167 of the principal Act, as amended by this Act, shall apply to every investigation pending immediately before the commencement of this Act, if the period of detention of the accused person, otherwise than in the custody of the police, had not, at such commencement, exceeded sixty days. Amendment of section 167 to apply to pending investigations.

15. In section 182 of the principal Act, in sub-section (*2*), after the words "by the first marriage", the words "or the wife by the first marriage has taken up permanent residence after the commission of the offence" shall be inserted. Amendment of section 182.

16. In section 196 of the principal Act, in sub-section (*2*), for the words "a cognizable offence", the words "an offence" shall be substituted. Amendment of section 196.

17. In section 198 of the principal Act, in paragraph (*c*) of the proviso to sub-section (*1*),— Amendment of section 198.

(*i*) for the word and figures "section 494", the words and figures "section 494 or section 495" shall be substituted;

(*ii*) after the words "mother's brother or sister", the words "or, with the leave of the Court, by any other person related to her by blood, marriage or adoption" shall be inserted.

18. In section 206 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— Amendment of section 206.

"(*3*) The State Government may, by notification, specially empower any Magistrate to exercise the powers conferred by sub-section (*1*) in relation to any offence which is compoundable under section 320 or any offence punishable with imprisonment for a term not exceeding three months, or with fine, or with both where the Magistrate is of opinion that, having regard to the facts and circumstances of the case, the imposition of fine only would meet the ends of justice.".

19. In section 209 of the principal Act, for clause (*a*), the following clause shall be substituted, namely:— Amendment of section 209.

"(*a*) commit, after complying with the provisions of section 207 or section 208, as the case may be, the case to the Court of Session, and subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made;".

20. In section 276 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:— Amendment of section 276.

"(*2*) Such evidence shall ordinarily be taken down in the form of a narrative, but the presiding Judge may, in his discretion, take

down, or cause to be taken down, any part of such evidence in the form of question and answer."

Amendment of section 293.

21. In section 293 of the principal Act, in clause (*e*) of sub-section (*4*), after the word "Director", the words ", Deputy Director or Assistant Director" shall be inserted.

Amendment of section 297.

22. In section 297 of the principal Act, in sub-section (*1*), for clause (*a*), the following clause shall be substituted namely:—

"(*a*) any Judge or any Judicial or Executive Magistrate, or".

Amendment of section 299.

23. In section 299 of the principal Act, in sub-section (*1*), after the words "competent to try", the words ", or commit for trial," shall be inserted.

Amendment of section 309.

24. In section 309 of the principal Act, in sub-section (*2*), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.".

Amendment of section 320.

25. In section 320 of the principal Act, in the Table under sub-section (*1*), in column 1, for the word "Defamation", the words, figures and brackets "Defamation, except such cases as are specified against section 500 of the Indian Penal Code in column 1 of the Table under sub-section (*2*)" shall be substituted. 45 of 1860.

Amendment of section 326.

26. In section 323 of the principal Act, the following shall be inserted at the end, namely:—

"and thereupon the provisions of Chapter XVIII shall apply to the commitment so made".

Amendment of section 326.

27. In section 326 of the principal Act,—

(*i*) in sub-section (*1*), for the word "Magistrate", wherever it occurs, the words "Judge or Magistrate" shall be substituted;

(*ii*) in sub-section (*2*), for the words "from one Magistrate to another Magistrate", the words "from one Judge to another Judge or from one Magistrate to another Magistrate" shall be substituted.

Amendment of section 374.

28. In section 374 of the principal Act, in sub-section (*2*), for the words "has been passed", the words "has been passed against him or against any other person convicted at the same trial" shall be substituted.

Amendment of section 377.

29. In section 377 of the principal Act, in sub-section (*2*), for the words "the Central Government may direct", the words "the Central Government may also direct" shall be substituted.

REPEALED

30. In section 378 of the principal Act, in sub-section (*1*), the following shall be inserted at the end, namely:— Amendment of section 378.

"or an order of acquittal passed by the Court of Session in revision".

31. In section 428 of the principal Act, after the words "sentenced to imprisonment for a term", the words ", not being imprisonment in default of payment of fine," shall be inserted. Amendment of section 428.

32. After section 433 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 433A.

"433A. Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.". Restriction on powers of remission or commutation in certain cases.

33. In section 468 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— Amendment of section 468.

"(*3*) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.".

34. In section 478 of the principal Act,— Amendment of section 478.

(*i*) for the words "State Legislature", the words "Legislative Assembly of a State" shall be substituted;

(*ii*) for the word "requires", the word "permits" shall be substituted.

35. In the Second Schedule to the principal Act,— Amendment of the Second Schedule.

(*i*) in Form No. 34,—

(*a*) in the heading, for the word "Magistrate", the word "Court" shall be substituted;

(*b*) for the brackets, words and figures "(*See* sections 248 and 255)", the brackets, words and figures "(*See* sections 235, 248 and 255)" shall be substituted;

(*ii*) in Form No. 41, for the brackets, words and figures "(*See* section 386)", the brackets, words and figures "(*See* sections 386, 413 and 416)" shall be substituted;

(*iii*) in Form No. 42, for the brackets, words and figures "(*See* section 414)", the brackets, words and figures "(*See* sections 413 and 414)" shall be substituted;

REPEALED

(*iv*) after Form No. 44, the following Form shall be inserted, namely:—

"FORM No. 44A

BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE

[*See* section 424 (*1*)(*b*)]

WHEREAS I, (*name*), inhabitant of (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release on condition of my executing a bond for my appearance on the following date (or dates), namely:—

I hereby bind myself to appear before the Court of at o'clock on the following date (or dates), namely:—

and, in case of making default herein, I bind myself to forfeit to Government the sum of rupees .

Dated, this day of , 19 .

(*Signature*).

WHERE A BOND WITH SURETIES IS TO BE EXECUTED, ADD—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of on the following date (or dates), namely:—

and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to Government the sum of rupees .

(*Signature*)";

(*v*) after Form No. 46, the following Forms shall be inserted, namely:—

"FORM No. 47

WARRANT OF ATTACHMENT TO ENFORCE A BOND

(*See* section 446)

To the Police Officer in charge of the police station at .

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by default forfeited to Government the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorise and require you to attach any movable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within days, to sell the property so attached or so

REPEALED

much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM No. 48

NOTICE TO SURETY ON BREACH OF A BOND

(*See* section 446)

To of

WHEREAS on the day of , 19 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of and bound yourself in default thereof to forfeit the sum of rupees to Government; and whereas the said (*name*) has failed to appear before this Court and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM No. 49

NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(*See* section 446)

To of

WHEREAS on the day of , 19 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Government; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited;

You are hereby required to pay the said penalty of rupees or to show cause within days why it should not be paid.

Dated, this day of , 19

(*Seal of the Court*)

(*Signature*).

FORM No. 50

WARRANT OF ATTACHMENT AGAINST A SURETY

(*See* section 446)

To of

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*) and the said (*name*) has made default, and thereby forfeited to Government the sum of rupees (*the penalty in the bond*);

This is to authorise and require you to attach any movable property of the said (*name*) which you may find within the district of , by seizure and detention; and, if the said amount be not paid within days, to sell the property so attached, or so much of it as may be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM No. 51

WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL

(*See* section 446)

To the Superintendent (or Keeper) of the Civil Jail at .

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (state the condition of the bond) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Government; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of his movable property, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorise and require you, the said Superintendent (or Keeper) to receive the said (*name*) into your custody with this warrant and to keep him safely in the said Jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*)

REPEALED

FORM No. 52

NOTICE TO THE PRINCIPAL OF FORFEITURE OF BOND TO KEEP THE PEACE

(*See* section 446)

To (*name, description and address*)

WHEREAS on the day of , 19 , you entered into a bond not to commit, etc. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees or to show cause before me within days why payment of the same should not be enforced against you.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM No. 53

WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE

(*See* section 446)

To (*name and designation of police officer*), at the police station of .

WHEREAS (*name and description*) did, on the day of , 19 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc., (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said (*name*) to the value of rupees , which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same; and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM No. 54

WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE

(*See* section 446)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Government the sum of rupees ; and whereas the said

REPEALED

(*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*);

This is to authorise and require you, the said Superintendent (or Keeper) of the said Civil Jail to receive the said (*name*) into your custody, together with this warrant, and to keep him safely in the said Jail for the said period of (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM No. 55

WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(*See* section 446)

To the police officer in charge of the police station at .

WHEREAS (*name, description and address*) did, on the day of , 19 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of whereby the said bond has been forfeited; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure movable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM No. 56

WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(*See* section 446)

To the Superintendent (or Keeper) of the Civil Jail at .

WHEREAS (*name, description and address*) did, on the day of , 19 , give security by bond in the sum of

rupees for the good behaviour of (*name, etc., of the principal*) and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Government the sum of rupees , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*);

This is to authorise and require you, the Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and to keep him safely in the said Jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of 19 .

(*Seal of the Court*)

(*Signature*).".

Rep. by Act 19 of 1988, s. 2 & Sch. I

THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS (AMENDMENT) ACT, 1978

No. 46 OF 1978

[26th December, 1978.]

An Act to amend the Suppression of Immoral Traffic in Women and Girls Act, 1956.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978.

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

Amendment of section 2.

2. In the Suppression of Immoral Traffic in Women and Girls Act, 1956 (hereinafter referred to as the principal Act), in section 2,— 104 of 1956

(a) in clause (a), after the word "room", in both the places where it occurs, the word ", conveyance" shall be inserted;

(b) after clause (a), the following clause shall be inserted, namely:—

'(aa) "corrective institution" means an institution, by whatever name called (being an institution established or licensed as such under section 21), in which women and girls, who are in need of correction, may be detained under this Act, and includes a shelter where female undertrials may be kept in pursuance of this Act;';

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

'(c) "magistrate" means a magistrate specified in the second column of the Schedule as being competent to exercise the

powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;';

(*d*) clause (*e*) shall be omitted;

(*e*) for clauses (*f*) and (*g*), the following clauses shall be substituted, namely:—

'(*f*) "prostitution" means the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind, and whether offered immediately or otherwise, and the expression "prostitute" shall be construed accordingly;

(*g*) "protective home" means an institution, by whatever name called (being an institution established or licensed as such under section 21), in which women and girls, who are in need of care and protection, may be kept under this Act, but does not include—

(*i*) a shelter where female undertrials may be kept in pursuance of this Act, or

(*ii*) a corrective institution;'.

Insertion of new section 2A.

3. After section 2 of the principal Act, the following section shall be inserted, namely:—

Rule of construction regarding enactments not extending to Jammu and Kashmir.

"2A. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.".

Amendment of section 4.

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

"(2) Where any person over the age of eighteen years is proved—

(*a*) to be living with, or to be habitually in the company of, a prostitute; or

(*b*) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling her prostitution; or

(*c*) to be acting as a tout or pimp on behalf of a prostitute,

REPEALED

it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (*1*).".

Amendment of section 7.

5. In section 7 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Any woman or girl, who carries on prostitution and the person with whom such prostitution is carried on, in any premises—

(*a*) which are within the area or areas, notified under sub-section (*3*), or

(*b*) which are within a distance of two hundred metres of any place of public religious worship, educational institution, hostel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or Magistrate in the manner prescribed,

shall be punishable with imprisonment for a term which may extend to three months.";

(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*3*) The State Government may, having regard to the kinds of persons frequenting any area or areas in the State, the nature and the density of population therein and other relevant considerations, by notification in the Official Gazette, direct that prostitution shall not be carried on in such area or areas as may be specified in the notification.

(*4*) Where a notification is issued under sub-section (*3*) in respect of any area or areas, the State Government shall define the limits of such area or areas in the notification with reasonable certainty.

(*5*) No such notification shall be issued so as to have effect from a date earlier than the expiry of a period of ninety days after the date on which it is issued.".

Amendment of section 9.

6. In section 9 of the principal Act, in sub-section (*1*), for the words "having the custody, charge or care of any woman or girl", the words "having the custody, charge or care of, or a position of authority over, any woman or girl" shall be substituted.

REPEALED

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

Substitution of new sections for section 10.

Release on probation of good conduct or after due admonition.

"10. (*1*) A person convicted for the first time of any offence under section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, be released by the court before which he is convicted, on probation of good conduct,—

(*a*) in a case arising in an area where the Probation of Offenders Act, 1958, is in force, in the manner provided in section 4 of that Act; and

20 of 1958.

(*b*) in any other case, in the manner provided in sub-section (*1*) of section 360 of the Code of Criminal Procedure, 1973.

2 of 1974.

(*2*) A person convicted for the first time of any offence under section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, also be released after due admonition,—

(*a*) in a case arising in an area, where the Probation of Offenders Act, 1958, is in force, in the manner provided in section 3 of that Act; and

20 of 1958.

(*b*) in any other case, in the manner provided in sub-section (*3*) of section 360 of the Code of Criminal Procedure, 1973.

2 of 1974.

(*3*) The provisions of sections 5 to 17 (both inclusive) of the Probation of Offenders Act, 1958, shall apply to the cases referred to in clause (*a*) of sub-section (*1*) and clause (*a*) of sub-section (*2*).

20 of 1958.

(*4*) The provisions of sub-sections (*2*) to (*10*) (both inclusive) of section 360 of the Code of Criminal Procedure, 1973, shall apply to the cases referred to in clause (*b*) of sub-section (*1*) and clause (*b*) of sub-section (*2*).

2 of 1974.

(*5*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other law for the time being in force, no person convicted of an offence under sub-section (*1*) or sub-section (*2*) of section 3, or under section 4, section 5, section 6 or section 9 shall be released on probation or after due admonition.

2 of 1974.

(*6*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), if the person convicted of an offence under section 7 or section 8 for the first time is a woman or girl, she shall be dealt with under this section and no sentence of imprisonment shall be awarded to her unless the court is satisfied that, having regard to the circumstances of the case, including the nature of the offence and the character of the offender, it would not be desirable to deal with her under this section; and if the court passes any sentence of imprisonment on the offender on first conviction, it shall record its reasons for doing so.

(*7*) For the purpose of satisfying itself whether or not it would be desirable to deal with such woman or girl under this section, the court shall call for a report from the probation officer appointed

under the Probation of Offenders Act, 1958, and shall consider his report, if any, and any other information available to it relating to the character and physical and mental condition of the offender. 20 of 1958.

Detention in a corrective institution.

10A. (*1*) Where—

(*a*) a female offender is found guilty of an offence under section 7 or section 8, and is not released under sub-section (*1*) or sub-section (*2*) of section 10; and

(*b*) the character, state of health and mental condition of the offender and the other circumstances of the case are such that it is expedient that she should be subject to detention for such term and such instruction and discipline as are conducive to her correction,

it shall be lawful for the court to pass, in lieu of a sentence of imprisonment, an order for detention in a corrective institution for such term, not being less than two years and not being more than five years, as the court thinks fit:

Provided that before passing such an order—

(*i*) the court shall give an opportunity to the offender to be heard and shall also consider any representation which the offender may make to the court as to the suitability of the case for treatment in such an institution, as also the report of the probation officer appointed under the Probation of Offenders Act, 1958; and 20 of 1958.

(*ii*) the court shall record that it is satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to benefit by such instruction and discipline as aforesaid.

(*2*) Subject to the provisions of sub-section (*3*), the provisions of the Code of Criminal Procedure, 1973, relating to appeal, reference and revision, and of the Limitation Act, 1963, as to the period within which an appeal shall be filed, shall apply in relation to an order of detention under sub-section (*1*) as if the order had been a sentence of imprisonment for the same period as the period for which the detention was ordered. 2 of 1974. 36 of 1963.

(*3*) Subject to such rules as may be made in this behalf, the State Government or authority authorised in this behalf may, at any time after the expiration of six months from the date of an order for detention in a corrective institution, if it is satisfied that there is a reasonable probability that the offender will lead a useful and industrious life, discharge her from such an institution, without condition or with such conditions as may be considered fit, and grant her a written licence in such form as may be prescribed.

(*4*) The conditions on which an offender is discharged under sub-section (*3*), may include requirements relating to residence of the offender and supervision over the offender's activities and movements.".

Amendment of section 12.

8. In section 12 of the principal Act, in sub-section (*4*), for the words and figures "sections 112 to 126 of the Code of Criminal Procedure, 1898", the words and figures "sections 111 to 123 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974

9. In section 13 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:— **Amendment of section 13.**

"(2) The special police officer shall not be below the rank of an Inspector of Police.

(2A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally:

Provided that no such power shall be conferred on—

(a) a retired police officer unless such officer, at the time of his retirement, was holding a post not below the rank of an inspector;

(b) a retired military officer unless such officer, at the time of his retirement, was holding a post not below the rank of a commissioned officer.".

10. In section 14 of the principal Act,— **Amendment of section 14.**

(a) in the opening paragraph, for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted; **5 of 1898. 2 of 1974.**

(b) in clause (iii) of the proviso, for the word "inspector", the word "sub-inspector" shall be substituted.

11. In section 15 of the principal Act,— **Amendment of section 15.**

(a) in sub-section (2), the following proviso shall be inserted at the end, namely:—

"Provided that the requirement as to the respectable inhabitants being from the locality in which the place to be searched is situate shall not apply to a woman required to attend and witness the search.";

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

"(4) The special police officer entering any premises under sub-section (1) shall be entitled to remove therefrom—

(a) any woman, if in his opinion, she is carrying on, or is being made to carry on, or attempts are being made to make her carry on, prostitution; or

(b) any girl, if in his opinion, she is under the age of twenty-one years and is carrying on, or is being made to carry on, or attempts are being made to make her carry on, prostitution.";

(c) in sub-section (5), for the words "the girl", the words "the woman or girl" shall be substituted;

(d) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search under this section as they apply to any search made under the authority of a warrant issued under section 94 of the said Code.". **2 of 1974.**

Substitution of new sections for sections 16 and 17.

12. For sections 16 and 17 of the principal Act, the following sections shall be substituted, namely:—

Rescue of woman or girl.

"16. (*1*) Where a magistrate has reason to believe from information received from the police or from any other person authorised by the State Government in this behalf or otherwise, that—

(*a*) a woman is being made to carry on prostitution in a brothel, or

(*b*) a girl apparently under the age of twenty-one years is living, or is carrying on, or is being made to carry on, prostitution in a brothel,

he may direct a police officer not below the rank of a sub-inspector to enter such brothel, and to remove therefrom such woman or girl and produce her before him.

(*2*) The police officer, after removing the woman or girl, shall forthwith produce her before the magistrate issuing the order.

Intermediate custody of women and girls removed under section 15 or rescued under section 16.

17. (*1*) When the special police officer removing a woman or girl under sub-section (*4*) of section 15 or a police officer rescuing a woman or girl under sub-section (*1*) of section 16, is for any reason unable to produce her before the appropriate magistrate as required by sub-section (*5*) of section 15, or before the magistrate issuing the order under sub-section (*2*) of section 16, he shall forthwith produce her before the nearest magistrate of any class, who shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate magistrate, or, as the case may be, the magistrate issuing the order:

Provided that no woman or girl shall be—

(*i*) detained in custody under this sub-section for a period exceeding ten days from the date of the order under this sub-section; or

(*ii*) restored to or placed in the custody of a person who may exercise a harmful influence over her.

(*2*) When the woman or girl is produced before the appropriate magistrate under sub-section (*5*) of section 15 or the magistrate under sub-section (*2*) of section 16, he shall, after giving her an opportunity of being heard, cause an inquiry to be made as to the correctness of the information received under sub-section (*1*) of section 16, the age, character and antecedents of the woman or girl and the suitability of her parents, guardian or husband for taking charge of her and the nature of the influence which the conditions in her home are likely to have on her if she is sent home, and, for this purpose, he may direct a probation officer appointed under the Probation of Offenders Act, 1958, to inquire into the above circumstances and into the personality of the woman or girl and the prospects of her rehabilitation. 20 of 1958.

(*3*) The magistrate may, while an inquiry is made into a case under sub-section (*2*), pass such orders as he deems proper for the

safe custody of the woman or girl:

Provided that no woman or girl shall be kept in custody for this purpose for a period exceeding three weeks from the date of such an order, and no woman or girl shall be kept in the custody of a person likely to have a harmful influence over her.

(4) Where the magistrate is satisfied, after making an inquiry as required under sub-section (2),—

(a) that the information received is correct; and

(b) that she is in need of care and protection,

he may, subject to the provisions of sub-section (5), make an order that such woman or girl be detained for such period, being not less than one year and not more than three years, as may be specified in the order, in a protective home, or in such other custody as he shall, for reasons to be recorded in writing, consider suitable:

Provided that such custody shall not be that of a person or body of persons of a religious persuasion different from that of the woman or girl, and that those entrusted with the custody of the woman or girl, including the persons in charge of a protective home, may be required to enter into a bond which may, where necessary and feasible, contain undertakings based on directions relating to the proper care, guardianship, education, training and medical and psychiatric treatment of the woman or girl as well as supervision by a person appointed by the court, which will be in force for a period not exceeding three years.

(5) In discharging his functions under sub-section (2), a magistrate may summon a panel of five respectable persons, three of whom shall, wherever practicable, be women, to assist him; and may, for this purpose, keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in women and girls.

(6) An appeal against an order made under sub-section (4) shall lie to the Court of Session whose decision on such appeal shall be final.".

Amendment of section 18.

13. In section 18 of the principal Act, in sub-section (1), for the words "two hundred yards", the words "two hundred metres" shall be substituted.

Substitution of new section for section 19.

14. For section 19 of the principal Act, the following section shall be substituted, namely:—

Application for being kept in a protective home or provided care and protection by court.

"19. (1) A woman or girl who is carrying on, or is being made to carry on, prostitution, may make an application, to the magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on, prostitution, for an order that she may be—

(a) kept in a protective home, or

(b) provided care and protection by the court in the manner specified in sub-section (3).

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(2) The magistrate may, pending inquiry under sub-section (3), direct that the woman or girl be kept in such custody as he may consider proper, having regard to the circumstances of the case.

(3) If the magistrate, after hearing the applicant and making such inquiry as he may consider necessary, including an inquiry by a probation officer appointed under the Probation of Offenders Act, 1958, into the personality, conditions of home and prospects of rehabilitation of the applicant, is satisfied that an order should be made under this section, he shall, for reasons to be recorded, make an order that the applicant be kept,— 20 of 1958.

(*i*) in a protective home, or

(*ii*) in a corrective institution, or

(*iii*) under the supervision of a person appointed by the magistrate,

for such period as may be specified in the order.".

Amendment of section 21.

15. In section 21 of the principal Act,—

(*a*) in sub-section (*1*), for the words "as many protective homes under this Act as it thinks fit and such homes", the words "as many protective homes and corrective institutions under this Act as it thinks fit and such homes and institutions" shall be substituted;

(*b*) in sub-sections (*2*), (*7*), (*8*) and (*10*), for the words "protective home", wherever they occur, the words "protective home or corrective institution" shall be substituted;

(*c*) in sub-section (*3*),—

(*i*) in the opening paragraph and in the first proviso, for the words "protective home", the words "protective home or corrective institution" shall be substituted;

(*ii*) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that a person or authority maintaining any corrective institution at the commencement of the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978, shall be allowed a period of six months from such commencement to make an application for such licence.";

(*d*) after sub-section (*9*), the following sub-section shall be inserted, namely:—

"(*9A*) The State Government or an authority authorised by it in this behalf may, subject to any rules that may be made in this behalf, transfer an inmate of a protective home to another protective home or to a corrective institution or an inmate

of a corrective institution to another corrective institution or to a protective home, where such transfer is considered desirable having regard to the conduct of the person to be transferred, the kind of training to be imparted and other circumstances of the case:

Provided that—

(*a*) no woman or girl who is transferred under this sub-section shall be required to stay in the home or institution to which she is transferred for a period longer than she was required to stay in the home or institution from which she was transferred;

(*b*) reasons shall be recorded for every order of transfer under this sub-section.".

Amendment of section 22.

16. In section 22 of the principal Act, for the words, brackets, letter and figure "a magistrate as defined in clause (*c*) of section 2", the words "a Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

Insertion of new sections 22A and 22B.

17. After section 22 of the principal Act, the following sections shall be inserted, namely:—

Power to establish Special Courts.

'22A. (*1*) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the Official Gazette and after consultation with the High Court, establish one or more Courts of Judicial Magistrates of the first class, or, as the case may be, Metropolitan Magistrates, in such district or metropolitan area.

(*2*) Unless otherwise directed by the High Court, a court established under sub-section (*1*) shall exercise jurisdiction only in respect of cases under this Act.

(*3*) Subject to the provisions of sub-section (*2*), the jurisdiction and powers of the presiding officer of a court established under sub-section (*1*) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(*4*) Subject to the foregoing provisions of this section, a court established under sub section (*1*) in any district or metropolitan area shall be deemed to be a court established under sub-section (*1*) of section 11, or, as the case may be, sub-section (*1*) of section 16, of the Code of Criminal Procedure, 1973 and the provisions of that Code shall apply accordingly in relation to such courts.

2 of 1974.

Explanation.—In this section, "High Court" has the same meaning as in clause (*e*) of section 2 of the Code of Criminal Procedure, 1973.

2 of 1974.

IMPRALBO

Power of court to try cases summarily.

22B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, if it considers it necessary so to do, direct that offences under this Act shall be tried in a summary way by a magistrate [including the presiding officer of a court established under sub-section (*1*) of section 22A] and the provisions of sections 262 to 265 (both inclusive) of the said Code, shall, as far as may be, apply to such trial: 2 of 1974.

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the magistrate shall, after hearing the parties, record an order to that effect and thereafter recall any witness, who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.'.

Amendment of section 23.

18. In section 23 of the principal Act, in sub-section (*2*),—

(*a*) in clause (*b*), after the words, brackets and figures "under sub-section (*1*) of section 10", the words "where the women or girls are without a home" shall be inserted;

(*b*) after clause (*b*), the following clause shall be inserted, namely:—

"(*bb*) the discharge of an offender under sub-section (*3*) of section 10A from a corrective institution and the form of licence to be granted to such offender;";

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

"(*c*) the detention and keeping in protective homes or, as the case may be, in corrective institutions of women and girls under this Act and their maintenance;";

(*d*) for clause (*g*), the following clause shall be substituted, namely:—

"(*g*) (*i*) the establishment, maintenance, management and superintendence of protective homes and corrective institutions under section 21 and the appointment, powers and duties of persons employed in such homes or institutions;

(*ii*) the form in which an application for a licence may be made and the particulars to be contained in such application;

(*iii*) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued or renewed and the procedure to be followed in making a full and complete investigation in respect of an application for a licence;

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(*iv*) the form of a licence and the conditions to be specified therein;

(*v*) the manner in which the accounts of a protective home and a corrective institution shall be maintained and audited;

(*vi*) the maintenance of registers and statements by a licensee and the form of such registers and statements;

(*vii*) the care, treatment, maintenance, training, instruction, control and discipline of the inmates of protective homes and corrective institutions;

(*viii*) the visits to and communication with such inmates;

(*ix*) the temporary detention of women and girls sentenced to detention in protective homes or in corrective institutions until arrangements are made for sending them to such homes or institutions;

(*x*) the transfer of an inmate from—

(*a*) one protective home to another, or to a corrective institution,

(*b*) one corrective institution to another or to a protective home,

under sub-section (*9A*) of section 21;

(*xi*) the transfer in pursuance of an order of the court from a protective home or a corrective institution to a prison of a woman or girl found to be incorrigible or exercising bad influence upon other inmates of the protective home or the corrective institution and the period of her detention in such prison;

(*xii*) the transfer to a protective home or corrective institution of women or girls sentenced under section 7 or section 8 and the period of their detention in such home or institution;

(*xiii*) the discharge of inmates from a protective home or corrective institution either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;

(*xiv*) the grant of permission to inmates to absent themselves for short periods;

(*xv*) the inspection of protective homes and corrective institutions and other institutions in which women and girls may be kept, detained and maintained;".

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Insertion of new Schedule.

19. In the principal Act, the following Schedule shall be inserted at the end, namely:—

"THE SCHEDULE

[*See* section 2(c)]

Section	Magistrate competent to exercise the powers
7(*1*)	District Magistrate.
11(*4*)	Metropolitan Magistrate or Judicial Magistrate of the first class.
12(*4*)	Metropolitan Magistrate or Judicial Magistrate of the first class.
15(5)	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
16	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
18	District Magistrate or Sub-Divisional Magistrate.
19	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
20	District Magistrate, Sub-Divisional Magistrate or any Executive Magistrate specially empowered by the State Government.
22B	Metropolitan Magistrate or Judicial Magistrate of the first class.".

Amendment of Act 20 of 1958.

20. In section 18 of the Probation of Offenders Act, 1958, the words and figures "or the Suppression of Immoral Traffic in Women and Girls Act, 1956" shall be omitted. 104 of 1956.

Rep. by Act 19 of 88, s. 2 & Sch. I

THE MOTOR VEHICLES (AMENDMENT) ACT, 1978

No. 47 OF 1978

[26th *December*, 1978.]

An Act further to amend the Motor Vehicles Act, 1939.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Motor Vehicles (Amendment) Act, 1978.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act; and any reference to the Motor Vehicles (Amendment) Act, 1978, in any amendment made by any provision of this Act shall be construed as a reference to the coming into force of that provision.

4 of 1939.

Amendment of section 2.

2. In section 2 of the Motor Vehicles Act, 1939 (hereinafter referred to as the principal Act),—

(*a*) after clause (*3*), the following clause shall be inserted, namely:—

'(*4*) "dealer" includes a person who is engaged in the manufacture of motor vehicles or in building bodies for attachment to chassis;';

(*b*) for clause (*9*), the following clauses shall be substituted, namely:—

'(*9*) "heavy goods vehicle" means any goods vehicle the registered laden weight of which, or a tractor the unladen weight of which, exceeds 11,000 kilograms;

(*9A*) "heavy passenger motor vehicle" means any public service vehicle or omnibus the registered laden weight of either of which, or a motor car the unladen weight of which, exceeds 11,000 kilograms;';

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(*c*) for clause (*14*), the following clauses shall be substituted, namely:—

'(*14*) "medium goods vehicle" means any goods vehicle, other than a light motor vehicle, heavy goods vehicle or road-roller;

(*14A*) "medium passenger motor vehicle" means any public service vehicle, other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;';

(*d*) after clause (*25*), the following clause shall be inserted, namely:—

'(*25A*) "re-built vehicle" means a motor vehicle re-built with an engine and a chassis both of which had not been registered under this Act as one vehicle;'.

Amendment of section 7.

3. In section 7 of the principal Act,—

(*i*) in sub-section (7), for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) a person who passes the test in driving a heavy goods vehicle shall be deemed also to have passed the test in driving any medium goods vehicle or light motor vehicle;

(*b*) a person who passes the test in driving a heavy passenger motor vehicle shall be deemed also to have passed the test in driving any medium passenger motor vehicle or light motor vehicle;

(*c*) a person who passes the test in driving a medium goods vehicle or a medium passenger motor vehicle shall be deemed also to have passed the test in driving any light motor vehicle.";

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

"(*7A*) Notwithstanding anything contained in sub-section (7), any person, who has a valid driving licence granted before the commencement of the Motor Vehicles (Amendment) Act, 1978, authorising him to drive a heavy motor vehicle or, as the case may be, a medium motor vehicle, shall, for the period specified in such licence, be permitted to drive—

(*a*) any heavy goods vehicle, heavy passenger motor vehicle, medium goods vehicle, medium passenger motor vehicle, or light motor vehicle, where the licence is for driving any heavy motor vehicle;

(*b*) any medium goods vehicle, medium passenger motor vehicle, or light motor vehicle, where the licence is for driving any medium motor vehicle.".

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4. In section 8 of the principal Act, in sub-section (2), for clauses (*d*) and (*e*), the following clauses shall be substituted, namely:— Amendment of section 8.

"(*d*) medium goods vehicle,

(*e*) medium passenger motor vehicle,

(*ei*) heavy goods vehicle,

(*eii*) heavy passenger motor vehicle,".

5. In section 9 of the principal Act, in sub-section (3), in clause (*a*), for the words "to drive a transport vehicle", the words "to drive as a paid employee or to drive a transport vehicle" shall be substituted. Amendment of section 9.

6. In section 10 of the principal Act,— Amendment of section 10.

(*a*) after the words "issued or renewed under this Act", the words, brackets and figures "after the commencement of the Motor Vehicles (Amendment) Act, 1978" shall be inserted;

(*b*) for the words "three years", the words "five years" shall be substituted;

(*c*) the following proviso shall be inserted at the end, namely:—

"Provided that a driving licence issued or renewed to drive as a paid employee or to drive a transport vehicle shall be effective without renewal for a period of three years only.".

7. In section 16 of the principal Act, after sub-section (*1*), the following sub-sections shall be inserted, namely:— Amendment of section 16.

"(*1A*) Upon the issue of an order under sub-section (*1*), the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority which issued the driving licence (hereafter in this section referred to as the issuing authority), or, as the case may be, to the licensing authority by which the driving licence was last renewed (hereafter in this section referred to as the renewing authority), and the issuing authority or, as the case may be, the renewing authority shall endorse the fact of disqualification in the driving licence and keep it until the period of disqualification has expired or the disqualification has been removed:

Provided that where the driving licence authorises a person to drive more than one class or description of motor vehicles and the order, made under sub-section (*1*), disqualifies him from driving any specified class or description of motor vehicles, the authority to which the driving licence was surrendered shall endorse the fact of disqualification in the driving licence and return the same to the holder.

(*1B*) Where an order of disqualification has been made under sub-section (*1*), the period of disqualification shall be reckoned from the date of surrender of the driving licence to the issuing authority or the renewing authority, as the case may be, under sub-section (*1A*), or from the date on which the relevant endorsement is made on the driving licence, whichever is earlier:

Provided that in a case where the driving licence is, on the date on which the said order is made, in the possession of the issuing

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authority or the renewing authority or a police officer, the disqualification shall take effect from the date of the said order.".

Amendment of section 21.

8. In section 21 of the principal Act, in sub-section (2), after clause (*aa*), the following clause shall be inserted, namely:—

"(*aaa*) the minimum educational qualifications of persons to whom licences to drive transport vehicles are issued after the commencement of the Motor Vehicles (Amendment) Act, 1978 and the time within which such qualifications are to be acquired by such persons;".

Amendment of section 24.

9. In section 24 of the principal Act,—

(*a*) in sub-section (3),—

(*i*) for the words "one of the groups of letters allotted to the State by the Sixth Schedule", the words "one of the groups of such of those letters as are allotted to the State by the Central Government from time to time by notification in the Official Gazette," shall be substituted;

(*ii*) the following proviso shall be inserted, namely:—

"Provided that the letters and figures aforesaid shall be shown—

(*a*) in the case of transport vehicles, in black on a white ground;

(*b*) in the case of motor vehicles temporarily registered, in red on a yellow ground;

(*c*) in the case of motor vehicles in the possession of dealers, in white on a red ground;

(*d*) in other cases, in white on a black ground.";

(*b*) after sub-section (3), as so amended, the following sub-sections shall be inserted, namely:—

"(4) A certificate of registration issued under sub-section (2), whether before or after the commencement of the Motor Vehicles (Amendment) Act, 1978, in respect of a motor vehicle, other than a transport vehicle, shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable.

(5) An application by or on behalf of the owner of a motor vehicle, other than a transport vehicle, for the renewal of a certificate of registration shall be made within such period as may be prescribed, in Form F as set forth in the First Schedule, shall contain the information required by that Form and shall be accompanied by the prescribed fee.

(6) Where in the case of a certificate of registration issued under this Act before the commencement of the Motor Vehicles (Amendment) Act, 1978, in respect of a motor vehicle, other than a transport vehicle, the period of fifteen years referred to in sub-section (4) has expired at such commencement, the holder of such certificate shall apply for the renewal of the said certificate in Form F as set forth in the First Schedule to the registering authority within six months from such commencement or within such extended period not exceeding

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six months as the authority may, on sufficient cause being shown, allow, and such application shall contain the information required by that Form and shall be accompanied by the prescribed fee.

(7) The registering authority may, on receipt of an application under sub-section (5) or sub-section (6), renew the certificate of registration for the prescribed period.".

Amendment of section 26.

10. In section 26 of the principal Act, in sub-section (1), for the words "before proceeding to register a motor vehicle require the person applying for registration of the vehicle", the words "before proceeding to register a motor vehicle or renew the certificate of registration in respect of a motor vehicle, other than a transport vehicle, require the person applying for registration of the vehicle or, as the case may be, for renewing the certificate of registration" shall be substituted.

Substitution of new section for section 27.

11. For section 27 of the principal Act, the following section shall be substituted, namely:—

Refusal of registration or renewal of the certificate of registration.

"27. The registering authority may, by order, refuse to register any motor vehicle, or renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle), if in either case the vehicle is mechanically defective or fails to comply with the requirements of Chapter V or of the rules made thereunder, or if the applicant fails to furnish particulars of any previous registration of the vehicle or furnishes inaccurate particulars in the application for registration of the vehicle or, as the case may be, for renewal of the certificate of registration thereof and the registering authority shall furnish the applicant whose vehicle is refused registration, or whose application for renewal of the certificate of registration is refused, a copy of such order, together with the reasons for such refusal".

Amendment of section 29.

12. In section 29 of the principal Act,—

(a) to sub-section (1), the following proviso shall be added, namely:—

"Provided that an application under this sub-section shall be accompanied—

(i) by a no objection certificate obtained under section 29A, or

(ii) in a case where no such certificate has been obtained, by—

(a) a receipt obtained under sub-section (2) of section 29A; or

(b) a postal acknowledgement received by the owner of the vehicle if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 29A,

together with a declaration that he has not received any communication from such authority refusing to grant such certi-

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ficate or requiring him to comply with any direction subject to which such certificate may be granted.";

(b) in sub-section (2), for the words "in accordance with the Sixth Schedule", the words, brackets and figures "as specified in sub-section (3) of section 24" shall be substituted;

(c) after sub-section (2) as so amended, the following sub-section shall be inserted, namely:—

"(2A) Where a motor vehicle is held under a hire-purchase agreement or is subject to hypothecation, the registering authority shall, after assigning the vehicle a registration mark under sub-section (2), inform the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the hire-purchase agreement or, as the case may be, the person in whose favour the vehicle is subject to hypothecation (by sending to such person a notice by registered post acknowledgement due at the address of such person entered in the certificate of registration) the fact of assignment of the said registration mark.".

Insertion of new section 29A. No objection certificate.

13. After section 29 of the principal Act, the following section shall be inserted, namely:—

"29A. (1) The owner of a motor vehicle when applying for the assignment of a new registration mark under sub-section (1) of section 29 to the registering authority within whose jurisdiction the vehicle is, or the transferor of any motor vehicle when reporting the transfer under sub-section (1) of section 31 to the registering authority within whose jurisdiction the transfer is to be effected, shall make an application in such form and in such manner as may be prescribed to the registering authority by which the vehicle was previously registered for the issue of a certificate (hereafter in this section referred to as the no objection certificate), to the effect that the registering authority has no objection for entering a new registration mark in the certificate of registration or, as the case may be, for entering the particulars of the transfer of ownership in the certificate of registration.

(2) The registering authority shall, on receipt of an application under sub-section (1), issue a receipt in such form as may be prescribed.

(3) On receipt of an application under sub-section (1), the registering authority may, after making such inquiry as it deems fit and within thirty days of the receipt thereof, by order in writing, communicate to the applicant that it has granted or refused to grant the no objection certificate:

Provided that a registering authority shall not refuse to grant the no objection certificate unless it has recorded in writing the reasons for doing so and a copy of the same has been communicated to the applicant.

(4) Where within a period of thirty days referred to in sub-section (3), the registering authority does not refuse to grant the no objection certificate or does not communicate the refusal to the applicant, the registering authority shall be deemed to have granted the no objection certificate.

(5) Before granting or refusing to grant the no objection certificate, the registering authority shall obtain a report in writing from the police that no case relating to the theft of the motor vehicle concerned has been reported or is pending, verify whether all the amounts due to Government including road tax in respect of that motor vehicle have been paid and take into account such other factors as the Central Government may by rules prescribe.".

Amendment of section 30.

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

"(*1A*) If the owner of a motor vehicle fails to intimate his new address to the concerned registering authority within the period specified in sub-section (*1*), the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 112, such amount not exceeding one hundred rupees as may be prescribed under sub-section (*1C*):

Provided that action under section 112 shall be initiated against the owner where he fails to pay the said amount.

(*1B*) Where a person has paid the amount under sub-section (*1A*), no action shall be taken against him under section 112.

(*1C*) For the purposes of sub-section (*1A*), a State Government may prescribe different amounts having regard to the period of delay in intimating the change in the place of residence, or place of business, or both, as recorded in the certificate of registration.".

Amendment of section 31.

15. In section 31 of the principal Act,—

(*a*) in sub-section (*1*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the transferor shall—

(*i*) within fourteen days of the transfer, report the fact of transfer to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee;

(*ii*) within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (*i*)—

(*A*) a no objection certificate obtained under section 29A; or

(*B*) in a case where no such certificate has been obtained,—

(*I*) a receipt obtained under sub-section (*2*) of section 29A; or

(*II*) a postal acknowledgement received by the transferor if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 29A,

together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted;";

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

"(*1A*) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (*a*) or clause (*b*) of sub-section (*1*), the registering authority may, having regard to the circumstances of the case, require the transferor or, as the case may be, the transferee, to pay, in lieu of any action that may be taken against the transferor or the transferee under section 112, such amount not exceeding one hundred rupees as may be prescribed under sub-section (*1C*):

Amendment of section 30

Provided that action under section 112 shall be initiated against the transferor or the transferee, where the transferor or, as the case may be, the transferee fails to pay the said amount.

(*1B*) Where a person has paid the amount under sub-section (*1A*), no action shall be taken against him under section 112.

(*1C*) For the purposes of sub-section (*1A*), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle.".

Amendment of section 31A.

16. In section 31A of the principal Act,—

(*a*) in sub-section (*5*), for the words "and issue a duplicate thereof to the person aforesaid", the following shall be substituted, namely:—

"and issue a fresh certificate of registration to the person with whom the registered owner has entered into the hire-purchase agreement:

Provided that a fresh certificate of registration shall not be issued in respect of a motor vehicle, unless the person pays the prescribed fee:

Provided further that a fresh certificate of registration issued in respect of a motor vehicle, other than a transport vehicle, shall be valid only for the remaining period for which the certificate cancelled under this sub-section would have been in force";

(*b*) after sub-section (*5*), the following sub-sections shall be inserted, namely:—

'(*5A*) The registered owner shall, before applying to the appropriate authority, for the renewal of a permit, make an application to the person with whom the registered owner has entered into a hire-purchase agreement (such person being hereafter in this section referred to as the financier) for the issue of a no objection certificate (hereafter in this section referred to as the certificate).

Explanation.—In this section, "appropriate authority", in relation to any permit, means the authority which is authorised by this Act to renew such permit.

REPEALED

(5B) Within seven days of the receipt of an application under sub-section (5A), the financier may issue, or refuse, for reasons which shall be recorded in writing and communicated to the applicant, to issue, the certificate applied for, and where the financier fails to issue the certificate and also fails to communicate the reasons for refusal to issue the certificate to the applicant within the said period of seven days, the certificate applied for shall be deemed to have been issued by the financier.

(5C) The registered owner shall, while applying to the appropriate authority for the renewal of any permit, submit with such application the certificate, if any, obtained under sub-section (5B) or, where no such certificate has been obtained, the communication received from the financier under that sub-section, or, as the case may be, a declaration that he has not received any communication from the financier within the period specified in that sub-section.

(5D) On receipt of an application for the renewal of any permit under this section, the appropriate authority may subject to the other provisions of this Act—

(i) in a case where the financier has refused to issue the certificate applied for, after giving the applicant an opportunity of being heard, either renew, or refuse to renew, the permit;

(ii) in any other case, renew the permit.';

(c) in sub-section (6), for the brackets and figure "(5)", the brackets, figure and letter "(5D)" shall be substituted.

17. In section 34 of the principal Act,— Amendment of section 34.

(a) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, the registering authority shall, after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the certificate of registration of the vehicle.";

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

'(8) In this section, "certificate of registration" includes a certificate of registration renewed under the provisions of this Act.'.

18. In section 35 of the principal Act, in sub-section (1), for the words "to register a motor vehicle", the words, brackets, figures and letter "to register a motor vehicle or to renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle) or under section 29A to issue a no objection certificate" shall be substituted. Amendment of section 35.

REPEALED

Amendment of section 41.

19. In section 41 of the principal Act, in sub-section (2),—

(*i*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) the period within which an application for renewal of a certificate of registration in respect of a motor vehicle, other than a transport vehicle, may be made and the period for which such certificate may be renewed;";

(*ii*) in clause (*c*), for the words "the issue", the words "the issue or renewal" shall be substituted;

(*iii*) after clause (*d*), the following clause shall be inserted, namely:—

"(*da*) the form in which and the manner in which an application for no objection certificate may be made under sub-section (*1*) of section 29A and the form of receipt to be issued under sub-section (*2*) thereof;";

(*iv*) in clause (*f*), for the words "the issue", the words "the issue or renewal" shall be substituted;

(*v*) after clause (*h*), the following clause shall be inserted, namely:—

"(*i*) the amount or amounts under sub-section (*1C*) of section 30 or sub-section (*1C*) of section 31;";

(*vi*) after clause (*l*), the following clause shall be inserted, namely:—

"(*la*) the conditions governing the registration of re-built vehicles;".

Amendment of section 44.

20. In section 44 of the principal Act, in sub-section (2), for the words "judicial experience", wherever they occur, the words "judicial experience or experience as an appellate or a revisional authority under any law relating to land revenue" shall be substituted.

Amendment of section 47.

21. In section 47 of the principal Act,—

(*a*) in sub-section (*1*), in the proviso, after the words "in force for the time being", the words "and an application for a stage carriage permit from a person who has a valid licence for driving transport vehicles" shall be inserted;

(*b*) after sub-section (*1*), as so amended, the following sub-sections shall be inserted, namely:—

'(*1A*) The Government of a State shall reserve in that State certain percentage of stage carriage permits for the Scheduled Castes and the Scheduled Tribes.

Explanation.—In this section and in sections 55 and 63, "Scheduled Castes" and "Scheduled Tribes" have the meanings respectively assigned to them in article 366 of the Constitution.

(*1B*) The reservation of permits under sub-section (*1A*) shall be in the same ratio as in the case of appointments made by direct recruitment to public services in the State.

(*1C*) The Government of a State may, having regard to the extent to which persons belonging to economically weaker

sections of the community have been granted stage carriage permits in that State,—

(*a*) reserve in that State such percentage of stage carriage permits, as may be prescribed, for persons belonging to economically weaker sections of the community; or

(*b*) notwithstanding anything contained in the proviso to sub-section (*1*), give preference, in such manner as may be prescribed, to applications for stage carriage permits from such persons.

Explanation I.—In this section and in sections 55, 63 and 68, a person shall be deemed to belong to economically weaker section of the community, if and only if, on the prescribed date,—

(*a*) the annual income of such person together with the annual income, if any, of the members of his family; or

(*b*) the extent of land (whether in one class or in different classes) held by such person together with that, if any, held by the members of his family; or

(*c*) the annual income and the extent of land aforesaid, does, or do, not exceed such limit as may be prescribed.

Explanation II.—For the purposes of *Explanation I*, "family", in relation to an individual, means the wife or husband, as the case may be, of such individual and the minor children of such individual.

(*1D*) The number of permits reserved under sub-section (*1B*) and clause (*a*) of sub-section (*1C*) shall not exceed fifty per cent. of the total number of stage carriage permits granted during a calendar year.

(*1E*) In giving effect to the provisions of sub-section (*1B*) and clause (*a*) of sub-section (*1C*), the Regional Transport Authority or the State Transport Authority may, if it considers necessary or expedient so to do, group the various routes within its jurisdiction.

(*1F*) Where any stage carriage permit is to be granted from the quota reserved under sub-section (*1B*) or clause (*a*) of sub-section (*1C*) to any co-operative society registered or deemed to have been registered under any enactment in force for the time being or any firm to which the provisions of the Indian Partnership Act, 1932 apply, no permit shall be granted to such society or firm unless the members of the co-operative society or the partners of the firm belong to the Scheduled Castes, the Scheduled Tribes or economically weaker sections of the community:

9 of 1932.

Provided that where the members of such co-operative society or the partners of such firm are partly from the Scheduled Castes, partly from the Scheduled Tribes and partly from the economically weaker sections of the community, or from any two of these categories, any permit under this sub-section shall be granted to such society or firm only from the quota reserved for the category to which the largest number of members of the co-operative society, or, as the case may be, partners of the firm belong:

REPEALED

Provided further that where no reservation has been made in the State for economically weaker sections of the community under clause (*a*) of sub-section (*1C*), no permit under this sub-section shall be granted to a co-operative society or firm unless the members of such society or partners of such firm belong to the Scheduled Castes or the Scheduled Tribes or partly to the Scheduled Castes and partly to the Scheduled Tribes and the permit to such society or firm shall be granted only from the quota reserved for the Scheduled Castes or the Scheduled Tribes according as to whether the larger number of the members of the co-operative society, or partners of the firm, belong to the Scheduled Castes or the Scheduled Tribes.

(*1G*) The circumstances under which, the manner in which, and the extent to which, reservation under sub-section (*1A*) and clause (*a*) of sub-section (*1C*) may be carried forward shall be such as may be prescribed.

(*1H*) Notwithstanding anything contained in this section, an application for a stage carriage permit from a State transport undertaking for operating in any inter-State route shall be given preference over all other applications:

Provided that the authority shall not grant a permit under this sub-section unless it is satisfied that the State transport undertaking would be able to operate in the inter-State route without detriment to its responsibility for providing efficient and adequate road transport service in any notified area or notified route as is referred to in sub-section (*3*) of section 68D where the undertaking operates the service.

Explanation.—For the purposes of this sub-section, "inter-State route" means any route lying contiguously in two or more States.'.

Amendment of section 55.

22. In section 55 of the principal Act,—

(*a*) in sub-section (*1*), in the proviso, after the words "in force for the time being", the words "and an application for a public carrier's permit from a person who has a valid licence for driving transport vehicles" shall be inserted;

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

"(*1A*) The Government of a State shall reserve in that State certain percentage of public carriers' permits for the Scheduled Castes and the Scheduled Tribes.

(*1B*) The Government of a State may, having regard to the extent to which persons belonging to economically weaker sections of the community have been granted public carriers' permits in that State,—

(*a*) reserve in that State such percentage of public carriers' permits, as may be prescribed, for persons belonging to economically weaker sections of the community; or

(b) notwithstanding anything contained in the proviso to sub-section (1), give preference, in such manner as may be prescribed, to applications for public carriers' permits from such persons.

(1C) The provisions of sub-sections (1B), (1D), (1F) and (1G) of section 47 shall apply to or in relation to the grant of public carriers' permits under this section as they apply to or in relation to the grant of stage carriage permits under that section.".

23. In section 58 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 58.

"(2A) Notwithstanding anything contained in sub-section (2), an application for the renewal of a permit may be made by a State transport undertaking in the case of a stage carriage permit or a public carrier's permit or a contract carriage permit, not less than fifteen days before the date of expiry of the permit.".

24. In section 63 of the principal Act,— Amendment of section 63.

(a) in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that—

(a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and

(b) any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.";

(b) in sub-section (7), the following proviso shall be inserted, namely:—

"Provided that preference shall be given to applications for permits from—

(i) the India Tourism Development Corporation;
(ii) a State Tourism Development Corporation;
(iii) a State Tourist Department;

(iv) such operators of tourist cars, or such travel agents, as may be approved in this behalf by the Ministry of the Central Government dealing in tourism.";

(c) after sub-section (11), the following sub-sections shall be inserted, namely:—

"(11A) The Government of a State shall reserve in that State certain percentage of national permits for the Scheduled Castes and the Scheduled Tribes.

REPEALED

(*11B*) The Government of a State may, having regard to the extent to which persons belonging to economically weaker sections of the community have been granted national permits in that State,—

(*a*) reserve in that State such percentage of national permits, as may be prescribed, for persons belonging to economically weaker sections of the community; or

(*b*) notwithstanding anything contained in clause (*b*) of sub-section (*12*), give preference, in such manner as may be prescribed, to applications for national permits from such persons.

(*11C*) The provisions of sub-sections (*1B*), (*1D*), (*1F*) and (*1G*) of section 47 shall apply to or in relation to the grant of national permits under this section as they apply to or in relation to the grant of stage carriage permits under that section.";

(*d*) in sub-section (*12*), in clause (*b*), for the word "or", the word "and" shall be substituted.

Amendment of section 64.

25. In section 64 of the principal Act, in sub-section (*2*), the word "whole-time" shall be omitted.

Amendment of section 64A.

26. In section 64A of the principal Act,—

(*a*) after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time:";

(*b*) in the existing second proviso, for the word "further", the word "also" shall be substituted.

Amendment of section 68.

27. In section 68 of the principal Act, in sub-section (*2*), after clause (*c*), the following clauses shall be inserted, namely:—

"(*ci*) the percentage of stage carriage permits, public carriers' permits or national permits to be reserved under section 47 or section 55 or section 63 for economically weaker sections of the community;

(*cii*) the manner in which preference shall be given in the grant of stage carriage permits, public carriers' permits or national permits to economically weaker sections of the community where no reservation is made to such applicants;

(*ciii*) the date and limits of annual income and the extent of land, for the purposes of *Explanation I* below sub-section (*1C*) of section 47;

(*civ*) the circumstances under which, the manner in which, and the extent to which, reservation may be carried forward in respect of stage carriage permits, public carriers' permits or national permits;".

28. In section 68F of the principal Act, after sub-section (*1D*), the following sub-section shall be inserted, namely:— Amendment of section 68F.

"(*1E*) Where a State transport undertaking applies for renewal of a permit within the period specified in sub-section (*2A*) of section 58, the State Transport Authority or, as the case may be, the Regional Transport Authority, shall, renew such permit, notwithstanding anything to the contrary contained in Chapter IV.".

29. In section 72 of the principal Act, in sub-section (*1*), for the words "heavy motor vehicles", the words "heavy goods vehicles or heavy passenger motor vehicles" shall be substituted. Amendment of section 72.

30. In section 75 of the principal Act, in sub-section (*4*), for the words "Chief Presidency Magistrate", the words "Chief Metropolitan Magistrate" shall be substituted. Amendment of section 75.

31. After section 82 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 82A.

'82A. No person shall enter or remain in any stage carriage for the purposes of travelling therein unless he has with him a proper pass or ticket: Prohibition against travelling without pass or ticket.

Provided that where arrangements for the supply of tickets are made in the stage carriage by which a person has to travel, a person may enter such stage carriage but as soon as may be after his entry therein, he shall make the payment of his fare to the conductor or the driver who discharges the functions of a conductor and obtain from such conductor or driver, as the case may be, a ticket for his journey.

Explanation.—In this section,—

(*a*) "pass" means a duty, privilege or courtesy pass entitling the person to whom it is given to travel in a stage carriage gratuitously and includes a pass issued on payment for travel in a stage carriage for the period specified therein;

(*b*) "ticket" includes a single ticket, a return ticket or a season ticket.'.

32. In section 110A of the principal Act, in sub-section (*1*), after clause (*a*), the following clause shall be inserted, namely:— Amendment of section 110A.

"(*aa*) by the owner of the property; or".

33. In section 110C of the principal Act, in sub-section (*2*), for the words and figures "section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898", the words and figures "section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973" shall be substituted. Amendment of section 110C.

5 of 1898.
2 of 1974.

34. After section 112 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 112A.

'112A. (*1*) Whoever travels in a stage carriage without having a proper pass or ticket with him or being in or having alighted from a stage carriage fails or refuses to present for examination or to Penalty for travelling without

pass or ticket and for dereliction of duty on the part of conductor.

deliver up his pass or ticket immediately on requisition being made therefor, he shall be punishable with fine which may extend to five hundred rupees.

Explanation.—In this section, "pass" and "ticket" have the meanings respectively assigned to them in section 82A.

(2) If the conductor of a stage carriage, or the driver of a stage carriage where such driver discharges the functions of a conductor in such stage carriage, whose duty is—

(a) to supply a ticket to a person travelling in a stage carriage on payment of fare by such person, either wilfully or negligently,—

(i) fails or refuses to accept the fare when tendered, or
(ii) fails or refuses to supply a ticket, or
(iii) supplies an invalid ticket, or
(iv) supplies a ticket of lesser value, or

(b) to check any pass or ticket, either wilfully or negligently fails or refuses to do so,

he shall be punishable with fine which may extend to five hundred rupees.

(3) The offence under this section may be compounded if the person referred to in sub-section (1) or the conductor or the driver referred to in sub-section (2), pays, on the spot on demand by such authority as the State Government may, by notification in the Official Gazette, specify,—

(a) ten times the actual fare payable by such person or realisable by such conductor or driver; or

(b) rupees five hundred,

whichever is less.

(4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 112.'.

Insertion of new section 124A.

35. After section 124 of the principal Act, the following section shall be inserted, namely:—

Imposition of minimum fine under certain circumstances.

"124A. (1) Whoever having been convicted of an offence under this Act commits an offence on a second or subsequent occasion within three years of the commission of a previous similar offence, no court shall, except for reasons to be stated in writing, impose on him a fine of less than one-fourth of the maximum amount of the fine imposable for such offence.

(2) Nothing in sub-section (1) shall be construed as restricting the power of the court from awarding such imprisonment as it considers necessary in the circumstances of the case not exceeding the maximum specified in this Act in respect of that offence.".

Amendment of section 129A.

36. In section 129A of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where a motor vehicle has been seized and detained under this section for contravention of the provisions of section 22, such vehicle shall not be released to the owner unless and until he produces a valid certificate of registration under this Act in respect of that vehicle.".

37. In section 132 of the principal Act, for the words "Presidency Magistrate", the words "Metropolitan Magistrate" shall be substituted. **Amendment of section 132.**

38. In section 133A of the principal Act, in sub-section (5),— **Amendment of section 133A.**

(*a*) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898. 2 of 1974.

(*b*) for the word and figures "section 98", the word and figures "section 94" shall be substituted.

39. In the First Schedule to the principal Act,— **Amendment of the First Schedule.**

(*a*) in Form A—

(*i*) in Section I, for items (*d*) and (*e*), the following items shall be substituted, namely:—

"*(*d*) medium goods vehicles,

*(*e*) medium passenger motor vehicles,

*(*ei*) heavy goods vehicles,

*(*eii*) heavy passenger motor vehicles,";

(*b*) in Section III, for question (*a*), the following question shall be substituted, namely:—

"(*a*) Do you suffer from attacks of loss of consciousness from any cause?";

(*c*) in Form AA, in the first paragraph, for items (*d*) and (*e*), the following items shall be substituted, namely:—

"(*d*) medium goods vehicles,

(*e*) medium passenger motor vehicles,

(*ei*) heavy goods vehicles,

(*eii*) heavy passenger motor vehicles,";

(*d*) in Form B, in Section II, for question (*a*), the following question shall be substituted, namely:—

"(*a*) Do you suffer from attacks of loss of consciousness from any cause?";

(*e*) in Form D, for items (*d*) and (*e*), the following items shall be substituted, namely:—

"(*d*) medium goods vehicles,

(*e*) medium passenger motor vehicles,

(*ei*) heavy goods vehicles,

(*eii*) heavy passenger motor vehicles,";

(*f*) in Form E—

(*i*) in entry 1, the words "and address" shall be omitted;

(*ii*) after entry 1A, the following entries shall be inserted, namely:—

"1AB. Permanent address of the person to be registered as registered owner.....

1AC. Temporary address of the person to be registered as registered owner.....";

(*iii*) after entry 2, the following entry shall be inserted, namely:—

"2A. The motor vehicle is—

(*a*) a new vehicle;

(*b*) a re-built vehicle;";

(*iv*) in entries 16 and 20, for the words "heavy motor vehicles", the words "heavy goods vehicles or heavy passenger motor vehicles" shall be substituted;

(*g*) after Form E, the following Form shall be inserted, namely:—

"FORM F

[*See* section 24(5) and (6)]

Form of Application for renewal of certificate of registration of a motor vehicle, other than a transport vehicle

I, Shri/Shrimati/Kumari..... hereby apply for the renewal of the certificate of registration, which is attached, and particulars of which are as follows:—

(*a*) Registered number.....

(*b*) Date of issue.....

(*c*) Registering authority by which the certificate was issued/last renewed.

My present address is.....

If this address is not entered on the licence, I do/do not wish that it should be so entered.

The renewal of the certificate has not been refused by any registering authority.

1. Class of vehicle
2. The motor vehicle is—

(*a*) a new vehicle;

(*b*) a re-built vehicle;

3. Type of body
4. Maker's name
5. Year of manufacture
6. Number of cylinders
7. Cubic capacity
8. Maker's classification
9. Chassis number
10. Engine number
11. Seating capacity (including driver)
12. Unladen weight

Dated: *Signature of Applicant.*

NOTE.—The motor vehicle above described is—

(*i*) subject to a hire-purchase agreement with.....

(*ii*) subject to hypothecation in favour of.....

(*iii*) not held under hire-purchase agreement or subject to any mortgage.

(Strike out whatever is not applicable and, if the motor vehicle is subject to hire-purchase agreement or hypothecation, obtain the signature of the hire-purchase company or the mortgagee, as the case may be.)

Signature of owner.

Signature of Hire-purchase Company/Mortgagee.";

(*h*) in Form G,—

(*i*) for the words "and address", occurring in the third entry below the heading "*Form of Certificate of Registration*", the words "and permanent and temporary addresses" shall be substituted;

(*ii*) after entry 1, the following entry shall be inserted, namely:—

"1A. The motor vehicle is—

(*a*) a new vehicle;

(*b*) a re-built vehicle;";

(*iii*) in entries 14 and 18, for the words "heavy motor vehicles", the words "heavy goods vehicles or heavy passenger motor vehicles" shall be substituted;

(*iv*) after entry 18, the following shall be inserted, namely:—

"This certificate is valid from..... to.....";

(*v*) before the Note, the following shall be inserted, namely:—

"This certificate is hereby renewed up to *Signature of registering authority.*

the..... day of .....19 . .....

the..... day of .....19 . .....

the..... day of .....19 . .....

the..... day of .....19 . .....".

40. In the Second Schedule to the principal Act, in paragraph I, in item 1, for the word "Epilepsy", the words "Attacks of loss of consciousness from any cause" shall be substituted. Amendment of the Second Schedule.

41. The Sixth Schedule to the principal Act shall be omitted. Omission of the Sixth Schedule.

42. In the Eighth Schedule to the principal Act,— Amendment of the Eighth Schedule.

(*a*) for the words "heavy motor vehicle", wherever they occur, the words "heavy goods vehicle or heavy passenger motor vehicle" shall be substituted;

(*b*) for the words "medium motor vehicle", the words "medium goods vehicle or medium passenger motor vehicle" shall be substituted.

Rep. by Act 19 of 1988, S. 2 & Sch. I

THE PAYMENT OF BONUS (AMENDMENT) ACT, 1978

No. 48 OF 1978

[30th December, 1978.]

An Act to amend the Payment of Bonus (Amendment) Act, 1977.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Payment of Bonus (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 8th day of September, 1978.

Amendment of section 2.

2. In section 2 of the Payment of Bonus (Amendment) Act, 1977 (hereinafter referred to as the amendment Act), after the words and figures "in respect of the accounting year commencing on any day in the year 1976", the words and figures "and in respect of the accounting year commencing on any day in the year 1977" shall be inserted. 43 of 1977.

Repeal and saving.

3. (1) The Payment of Bonus (Amendment) Ordinance, 1978 is hereby repealed. 3 of 1978.

(2) Notwithstanding such repeal, anything done or any action taken under the Payment of Bonus Act, 1965 by virtue of the provisions of the amendment Act as amended by the said Ordinance shall be deemed to have been done or taken under the Payment of Bonus Act, 1965 by virtue of the provisions of the amendment Act as amended by this Act. 21 of 1965.

THE SUGAR UNDERTAKINGS (TAKING OVER OF MANAGEMENT) ACT, 1978

No. 49 OF 1978

[30*th December*, 1978.]

An Act to provide for the temporary taking over, in the public interest, of the management of certain sugar undertakings in certain circumstances.

WHEREAS for maintaining the continuity of production of sugar, for avoiding undue hardship to cane producing farmers and to best subserve the interests of all sections of the people, it is expedient in the public interest to provide for the taking over for a limited period the management of every sugar undertaking which fails or ceases to manufacture sugar or which fails to pay promptly amounts due for the cane acquired for the purposes of the undertaking;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Sugar Undertakings (Taking Over of Management) Act, 1978.

(*2*) It extends to the whole of India.

(*3*) It shall be deemed to have come into force on the 9th day of November, 1978.

Definitions.

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

(*a*) "appointed day", in relation to any sugar year, means such day in the year as the Central Government may, by notification, specify having regard to the agro-climatic conditions prevailing or likely to prevail, the quantity of cane available or likely to be available for crushing and other relevant factors:

Provided that for the sugar year 1978-79, the appointed day shall be the 15th day of November, 1978;

(*b*) "cane" means sugarcane;

(*c*) "date of vesting", in relation to a sugar undertaking, means the date on which the management of the undertaking vests in the Central Government under section 3;

(*d*) "notification" means a notification published in the Official Gazette;

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

(*f*) "sugar undertaking" means an undertaking engaged in the manufacture or production of sugar by means of vacuum pans and with the aid of mechanical power and "notified sugar undertaking" means a sugar undertaking in respect of which a notification has been issued under section 3;

(*g*) "sugar year" means the period of twelve months commencing on the 1st day of October and ending with the 30th day of September next following;

(*h*) words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951 shall have the meanings respectively assigned to them in that Act and for this purpose a sugar undertaking shall be deemed to be an industrial undertaking within the meaning of that Act; 65 of 1951.

(*i*) words and expressions used but not defined in this Act or in the Industries (Development and Regulation) Act, 1951 but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in the Companies Act, 1956. 65 of 1951. 1 of 1956.

CHAPTER II

TAKING OVER OF MANAGEMENT

Vesting of management of a sugar undertaking in Central Government.

3. (*1*) Where the Central Government is satisfied—

(*a*) that any sugar undertaking has in any sugar year failed to commence the manufacture of sugar on or before the appointed day in respect of that year, or having started the manufacture of sugar on or before that day ceased to manufacture sugar before the expiry of the average period of manufacture of sugar in relation to that undertaking; or

(*b*) that on any date in any sugar year any sugar undertaking has, in relation to the cane purchased before that date for the purposes of the undertaking, arrears of cane dues to the extent of more than ten per cent. of the total price of the cane purchased for the purposes of the undertaking during the immediately preceding sugar year; and

(*c*) that in either case the effective functioning of the undertaking is necessary for the purposes of this Act,

the Central Government may issue a notice in such form and in such manner as may be prescribed to the owner or the manager of such sugar undertaking calling upon such owner or manager to report in writing within such time, not being less than five days, as may be specified in the notice, the circumstances under which such undertaking has so failed to commence or ceased to manufacture sugar or, as the case may be, clear the said arrears of cane dues and to show cause as to why the management of such undertaking should not be taken over by the Central Government under this Act.

(2) As soon as may be, after the receipt of the report under sub-section (1) from the sugar undertaking, or where the sugar undertaking has failed to make such report within the time specified in the notice to that undertaking under sub-section (1), after the expiry of such time, the Central Government may make such further inquiry (if any) as it may deem fit, and—

(a) if the Central Government is satisfied that having regard to all the circumstances of the case and the purposes of this Act that it would be expedient to give further time to the undertaking to enable it to commence or resume production of sugar or, as the case may be, clear the arrears of cane dues, it may, by order in writing, specify the date on or before which and the manner in which such undertaking shall commence or resume production of sugar or, as the case may be, clear the said arrears of cane dues; or

(b) if the Central Government is not satisfied as provided in clause (a), declare by notification that the management of such undertaking shall vest in the Central Government on and from such date as may be specified in such notification.

(3) If a sugar undertaking has failed to comply with an order made under clause (a) of sub-section (2), or having commenced or resumed the production of sugar on or before the date specified in such order, ceased to manufacture sugar before the expiry of the average period of manufacture of sugar in relation to that undertaking, and the Central Government is satisfied that it is necessary so to do for the purposes of this Act, it may, by notification, declare that the management of such sugar undertaking shall vest in the Central Government on and from such date as may be specified in such notification.

(4) Any failure on the part of the owner or manager of the sugar undertaking to utilise the undertaking for the manufacture of sugar during any period shall not be taken into account for the purpose of issuing a notification in respect of that undertaking under clause (b) of sub-section (2) or sub-section (3) where such failure is attributable to any circumstances (other than financial difficulties) beyond his control.

(5) Every notification issued under sub-section (2) or sub-section (3) for vesting the management of a sugar undertaking in the Central Government shall be in force for such period not exceeding three years from the date of vesting as may be specified in the notification but if the period so specified is less than three years from the date of vesting

and the Central Government is of opinion that it is expedient in the public interest that the management of the sugar undertaking should continue to vest in the Central Government after the expiry of the period so specified, it may, from time to time, issue, by notification, directions for such continuance for such further period as may be specified in the directions:

Provided that the total period for which the management of the undertaking may remain vested in the Central Government shall in no case exceed three years from the date of vesting.

(*6*) For the purposes of this section—

(*a*) "cane dues", in relation to any cane purchased by a sugar undertaking, means the price payable in accordance with the agreement (whether express or implied) or arrangement relating to such purchase and where there is no such agreement or arrangement, the price as determined in accordance with the law applicable to such purchase;

(*b*) any cane dues being the price payable for any cane acquired for the purposes of a sugar undertaking shall not be deemed to be in arrears at any time before the expiry of fourteen days from the date of delivery of such cane to the undertaking;

(*c*) the average period of manufacture of sugar in relation to any sugar undertaking with respect to any sugar year (hereafter in this clause referred to as the current sugar year) shall be calculated by dividing the total number of calendar days during which the undertaking manufactured sugar during the period of three sugar years immediately preceding the current sugar year by the number of sugar years in which the undertaking manufactured sugar during the said period of three years.

Assets, etc., of notified sugar undertaking.

4. (*1*) The notified sugar undertaking shall be deemed to include all assets, rights, powers, authorities and privileges, in relation to the said undertaking and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery, automobiles and other vehicles and goods under production or in transit, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were, immediately before the date of vesting, in the ownership, possession, power or control of that undertaking, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(*2*) Any contract, whether express or implied, or other arrangement (whether under any statute or otherwise) in so far as it relates to the management of the business and affairs of the notified sugar undertaking, and in force immediately before the date of vesting, or any order made by any Court in so far as it relates to the management of the business and affairs of that undertaking and in force immediately before the said date, shall be deemed to have terminated on that date.

(*3*) All persons in whom the management of the business and affairs of the notified sugar undertaking vests immediately before the date of vesting shall, as from that date, cease to be so vested.

(4) Notwithstanding any judgment, decree or order of any Court, tribunal or other authority or anything contained in any law (other than this Act) for the time being in force, every Receiver, Official Liquidator or other person in whose possession or custody or under whose control the notified sugar undertaking or any part thereof may be immediately before the date of vesting, shall, on that date, deliver the possession of the said undertaking or such part thereof, as the case may be, to the Custodian, appointed under section 5, or, where no Custodian has been appointed, to such other person as the Central Government may direct.

(5) The Central Government may take, or cause to be taken, all necessary steps for securing the possession of the notified sugar undertaking.

Appointment of Custodian.

5. (1) The Central Government may, as soon as it is convenient administratively so to do, appoint an individual or a body of individuals or a Government company as the Custodian of a notified sugar undertaking or a group of notified sugar undertakings for the purpose of taking over the management of such undertaking or undertakings and the Custodian so appointed shall carry on the management of such undertaking or undertakings for and on behalf of the Central Government.

(2) The Central Government may also appoint an individual or a Government company as the Custodian-General for exercising supervision and control over all the notified sugar undertakings, and on such appointment, every Custodian appointed under sub-section (1) shall act under the guidance, control and supervision of the Custodian-General.

(3) On the appointment of a Custodian under sub-section (1), the charge of management of the notified sugar undertaking or group of notified sugar undertakings, as the case may be, shall vest in such Custodian and all persons in charge of the management of such undertaking or undertakings immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all assets, books of account, registers or other documents in their custody relating to such undertaking or group of undertakings.

(4) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any Court, tribunal or other authority) to the Custodian or Custodian-General as to his or its powers and duties as the Central Government deems desirable and the Custodian-General or, if there is no Custodian-General, the Custodian may apply to the Central Government at any time for instructions as to the manner in which the Custodian or the Custodian-General shall conduct the management of the notified sugar undertaking or in relation to any matter arising in the course of such management.

(5) Any person, who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the notified sugar undertaking, shall, notwithstanding anything contained in any other law for the time being in force, be liable, to account for the books, papers and other documents, to the Custodian and shall deliver them up to the Custodian or to such other person as may be authorised by the Central Government or the Custodian in this behalf.

(6) Every person in charge of the management of the notified sugar undertaking, immediately before the date of vesting, shall, within ten days from that date or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts, investments and belongings) forming part of the undertaking immediately before the date of vesting and of all liabilities and obligations of the undertaking subsisting immediately before that date and also of all agreements entered into by the owner or manager of the undertaking, in relation to the said undertaking, and in force immediately before that date.

(7) The Custodian-General shall hold office during the pleasure of the Central Government and shall receive such remuneration as may be fixed by the Central Government.

(8) Every Custodian or where a body of individuals has been appointed as the Custodian, each such individual shall hold office during the pleasure of the Central Government and shall receive from the funds of the sugar undertaking or group of sugar undertakings concerned, such remuneration as may be fixed by the Central Government.

Explanation.—The remuneration payable to the Custodian of two or more notified undertakings shall be allocated among the funds of the undertakings in such proportion as the Central Government may, having regard to the quantum of work in respect of such undertakings and other relevant circumstances, by order determine.

Payment of amount.

6. (1) The owner of every notified sugar undertaking shall be given by the Central Government an amount in cash for vesting in it under section 3 the management of such undertaking.

(2) For every month during which the management of the notified sugar undertaking remains vested in the Central Government under this Act, the amount, referred to in sub-section (1), shall be,—

(a) where the daily cane crushing capacity of the undertaking is five hundred tonnes or less, an amount of five hundred rupees; and

(b) where the daily cane crushing capacity of the undertaking is more than five hundred tonnes, an amount computed at the rate of one rupee for each tonne of such capacity or an amount of one thousand two hundred and fifty rupees, whichever is less.

CHAPTER III

RELIEF TO SUGAR UNDERTAKINGS AND CANE PRODUCING FARMERS

Power of Central Government to make certain declarations.

7. (1) The Central Government may, if it is satisfied, in relation to a notified sugar undertaking that it is necessary so to do in the interests of the general public with a view to preventing the fall in the volume of production of the sugar industry, it may, by notification, declare that—

(a) all or any of the enactments specified in the Schedule shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, affect the

policy of the said enactments) to such sugar undertaking, as may be specified in such notification, or

(*b*) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such sugar undertaking or the person owning such undertaking is a party or which may be applicable to such sugar undertaking or person) immediately before the date of issue of the notification shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notification.

(*2*) The notification made under sub-section (*1*) in relation to a notified sugar undertaking shall remain in force, in the first instance, for such period not exceeding one year as may be specified in the notification but the duration of such notification may be extended from time to time by a further notification by a period not exceeding one year at a time.

(*3*) Any notification made under sub-section (*1*) shall have effect notwithstanding anything to the contrary contained in any other law, agreement, or instrument or any decree or order of a Court, tribunal, officer or other authority or of any submission, settlement or standing order.

(*4*) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (*b*) of sub-section (*1*) and suspended or modified by a notification made under that sub-section shall, in accordance with the terms of the notification, remain suspended or modified and all proceedings relating thereto pending before any Court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notification ceasing to have effect—

(*a*) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notification had never been made;

(*b*) any proceeding so remaining stayed shall be proceeded with subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings become stayed.

(*5*) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (*b*) of sub-section (*1*), the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

Assistance to notified sugar undertakings to clear arrears of cane dues.

8. (*1*) The Central Government may issue such directions as it deems fit to the Custodian-General and the Custodians to facilitate the speedy clearance of arrears of cane dues so as to avoid undue hardship to cane producing farmers.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Central Government may render such assistance in such manner as it may deem fit to any notified sugar undertaking to enable the undertaking to

clear the whole or any part of its arrears of cane dues so as to avoid undue hardship to cane producing farmers.

Explanation.—For the purposes of this section, the expression "arrears of cane dues" shall be construed in accordance with the provisions of clauses (*a*) and (*b*) of sub-section (*6*) of section 3.

CHAPTER IV

MISCELLANEOUS

Notified sugar undertaking, if a company, not to be wound up.

9. (*1*) No proceeding for the winding up of a notified sugar undertaking, being a company, shall lie in any Court or be continued whether by or under the supervision of any Court or voluntarily, except with the consent of the Central Government.

(*2*) In computing the period of limitation prescribed by any law for the time being in force for any application which may be made in the course of winding up of any such notified sugar undertaking in respect of any matter arising out of any transaction in relation to such undertaking, the time during which the making of such application was barred by this Act shall be excluded.

Contracts, etc., in bad faith may be cancelled or varied.

10. (*1*) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into by the owner or manager of a notified sugar undertaking, in relation to the said undertaking, at any time within twelve months immediately preceding the date of vesting, has been entered into in bad faith or is detrimental to the interests of the undertaking, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(*2*) Any person aggrieved by an order made under sub-section (*1*) may make an application to the principal Court of civil jurisdiction within the local limits of whose jurisdiction the registered office of the sugar undertaking is situated for the variation or reversal of such order and, thereupon such Court may confirm, vary or reverse such order.

Power to terminate the contract of employment.

11. If the Custodian or Custodian-General is of opinion that any contract of employment entered into by any owner or member of a notified sugar undertaking or its agent in relation to the said undertaking, at any time before the date of vesting, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Management of notified sugar

12. (*1*) Pending the taking over by a Custodian, appointed under section 5, of the physical possession of any notified sugar undertaking, the person in charge of the management of such undertaking immediately before the date of vesting shall on and from that date, be in

charge of the management of such undertaking for and on behalf of the Central Government; and the management of such undertaking shall be carried on by such person subject to the provisions contained in sub-section (2) and such directions, if any, as the Central Government may give to him, and no other person, including the said undertaking shall, so long as such management continues, exercise any powers of management in relation to the said undertaking.

undertakings pending taking over physical possession by the Custodian.

(2) No person in charge, under sub-section (1), of a notified sugar undertaking shall, without the previous approval of the Custodian-General appointed under section 5,—

(*i*) incur any expenditure from the assets appertaining to the undertaking otherwise than for the purpose of making routine payments of salaries or commissions to employees, agents or for the purpose of meeting the routine day to day expenditure;

(*ii*) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other incumbrance thereon;

(*iii*) invest in any manner any moneys forming part of such assets;

(*iv*) acquire any immovable property out of the moneys forming part of such assets;

(*v*) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the undertaking or vary the terms and conditions of any contract relating to any such transaction subsisting on the date of vesting.

(3) The approval of the Custodian-General may be given either generally in relation to certain classes of transactions relating to the notified sugar undertaking or specially in relation to any of its transactions.

Protection of action taken in good faith.

13. (1) No suit, prosecution or other legal proceeding shall lie against the Government, the Custodian-General or any other officer of Government or any Custodian in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Government, the Custodian-General or any other officer of Government or any Custodian for any damage caused, or likely to be caused, by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

14. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than those under this section or section 8 or section 20 may also be exercised by any person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Debts incurred for the purposes of notified sugar undertakings to have priority.

15. Every debt arising out of any loan advanced to a notified sugar undertaking by the Central Government or a State Government for carrying on the management of such undertaking—

(*a*) shall have priority over all other debts, whether secured or unsecured, incurred before the management of such undertaking was taken over under this Act;

(*b*) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956, 1 of 1956.

and such debts shall rank equally among themselves and be paid in full out of the assets of the undertaking unless such assets are insufficient to meet them, in which case they shall abate in equal proportions.

Penalties.

16. If any person—

(*a*) fails to deliver to the Custodian any assets, books of account, registers or any other documents in his custody relating to any notified sugar undertaking, or

(*b*) retains any property of such undertaking or removes or destroys it, or

(*c*) fails to comply with the provisions of section 5, or

(*d*) fails to comply with any direction made under this Act,

he shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Offences by companies.

17. (*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 had 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 or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

18. (*1*) The provisions of this Act shall not apply to any sugar undertaking which is owned by or is under the management of the Central Government or a State Government or a corporation established by or under an enactment (including an Ordinance) or a Government company as defined in section 617 of the Companies Act, 1956. Act not to apply to certain sugar undertakings.

1 of 1956.

(*2*) For the purposes of sub-section (*1*), the management of a sugar undertaking by a receiver or an authorised controller appointed by the Central Government or a State Government under any law for the time being in force shall also be deemed to be management of the undertaking by the Central Government or a State Government, as the case may be.

19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law (other than this Act) or any judgment, decree or order of any Court, tribunal or other authority or any instrument having effect by virtue of any law other than this Act. Act to have overriding effect.

20. The Central Government may, by notification, make rules to carry out the provisions of this Act. Power to make rules.

21. Every rule made by the Central Government under this Act and every notification made under section 7 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification. Laying of rules and certain notifications.

5 of 1978.

22. (*1*) The Sugar Undertakings (Taking Over of Management) Ordinance, 1978, is hereby repealed. Repeal and saving.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(*See* section 7)

20 of 1946. 1. The Industrial Employment (Standing Orders) Act, 1946.

14 of 1947. 2. The Industrial Disputes Act, 1947.

11 of 1948. 3. The Minimum Wages Act, 1948.

THE CONSTITUTION (FORTY-THIRD AMENDMENT) ACT, 1977

[13*th April*, 1978.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Forty-third Amendment) Act, 1977.

Omission of article 31D.

2. Article 31D of the Constitution shall be omitted.

Omission of article 32A.

3. (*1*) Article 32A of the Constitution shall be omitted.

(*2*) Any proceedings pending before the Supreme Court under article 32 of the Constitution immediately before the commencement of this Act may be dealt with by the Supreme Court as if the said article 32A had been omitted with effect on and from the 1st day of February, 1977.

Omission of article 131A.

4. (*1*) Article 131A of the Constitution shall be omitted.

(*2*) Notwithstanding anything contained in sub-section (*1*), where immediately before the commencement of this Act any reference made by a High Court under the said article 131A is pending before the Supreme Court, the Supreme Court may, having regard to—

(*a*) the stage at which the reference is so pending; and

(*b*) the ends of justice,

either deal with the case as if that article had not been omitted or return the case to the High Court for disposal as if that article had been omitted with effect on and from the 1st day of February, 1977.

Omission of article 144A.

5. (*1*) Article 144A of the Constitution shall be omitted.

(*2*) Any case pending before the Supreme Court immediately before the commencement of this Act may be dealt with by the Supreme Court as if the said article 144A had been omitted with effect on and from the 1st day of February, 1977.

6. In article 145 of the Constitution,— Amendment of article 145.

(*a*) in clause (1), in sub-clause (cc), for the words, figures and letters "articles 131A and 139A", the word, figures and letter "article 139A" shall be substituted;

(*b*) in clause (2), the words, figures and letter "article 144A and of" shall be omitted;

(c) in clause (3), the words, figures and letter "Subject to the provisions of article 144A," shall be omitted.

7. In article 226 of the Constitution, in clause (1), the words, figures and letters "but subject to the provisions of article 131A and article 226A" shall be omitted. Amendment of article 226.

8. (*1*) Article 226A of the Constitution shall be omitted. Omission of article 226A.

(*2*) Any proceedings pending before a High Court under article 226 of the Constitution immediately before the commencement of this Act may be dealt with by the High Court as if the said article 226A had been omitted with effect on and from the 1st day of February, 1977.

9. In article 228 of the Constitution, in the opening portion, the words, figures and letter ", subject to the provisions of article 131A," shall be omitted. Amendment of article 228.

10. (*1*) Article 228A of the Constitution shall be omitted. Omission of article 228A.

(*2*) Any case pending before a High Court immediately before the commencement of this Act may be dealt with by the High Court as if the said article 228A had been omitted with effect on and from the 1st day of February, 1977.

11. In article 366 of the Constitution, clause (4A) and clause (26A) shall be omitted. Amendment of article 366.

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