

C O N T E N T S

No. of Act	Short title	Page
1	The Banking Laws (Amendment) Act, 1983	1
2	The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984	50 REPEALED
3	The Prevention of Damage to Public Property Act, 1984	53
4	The Industries (Development and Regulation) Amendment Act, 1984	55
5	The Asiatic Society Act, 1984	60
6	The Appropriation (Vote on Account) Act, 1984	66
7	The Appropriation Act, 1984	74
8	The Appropriation (No. 2) Act, 1984	79
9	The Appropriation (Railways) Act, 1984	81
10	The Appropriation (Railways) No. 2 Act, 1984	83
11	The Appropriation (Railways) No. 3 Act, 1984	85
12	The Pondicherry Appropriation (Vote on Account) Act, 1984	87
13	The Pondicherry Appropriation Act, 1984	90
14	The Punjab Appropriation (Vote on Account) Act, 1984	93
15	The Punjab Appropriation Act, 1984	97
16	The Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1984	100
17	The Incheck Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Act, 1984	114
18	The Appropriation No. 3 Act, 1984	131
19	The Government of Union Territories (Amendment) Act, 1984	139
20	The Oilfields (Regulation and Development) Amendment Act, 1984	140 REPEALED
21	The Finance Act, 1984	141
22	The Workmen's Compensation (Amendment) Act, 1984	194 REPEALED
23	The Punjab Commercial Crops Cess (Amendment) Act, 1984	201 REPEALED
24	The National Security (Amendment) Act, 1984	202
25	The Payment of Gratuity (Amendment) Act, 1984	204 REPEALED
26	The Payment of Gratuity (Second Amendment) Act, 1984	208
27	The Union Duties of Excise (Distribution) Amendment Act, 1984	211
28	The Union Duties of Excise (Electricity) Distribution (Amendment) Act, 1984	213 REPEALED
29	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1984	215 REPEALED
30	The Monopolies and Restrictive Trade Practices (Amendment) Act, 1984	217 REPEALED
31	The Visva-Bharati (Amendment) Act, 1984	252
32	The Estate Duty (Distribution) Amendment Act, 1984	306 REPEALED
33	The Mogul Line Limited (Acquisition of Shares) Act, 1984	307
34	The Essential Commodities (Amendment) Act, 1984	310
35	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1984	312 REPEALED

No. of Act	Short title	Page
36	The Punjab State Legislature (Delegation of Powers) Act, 1984	REPEALED 316
37	The Delhi Rent Control (Amendment) Act, 1984	REPEALED 317
38	The Delhi Development (Amendment) Act, 1984	319
39	The Punjab Municipal (New Delhi Amendment) Act, 1984	324
40	The Export (Quality Control and Inspection) Amendment Act, 1984	331
41	The Merchant Shipping (Amendment) Act, 1984	REPEALED 340
42	The Delhi Municipal Corporation (Amendment) Act, 1984	347
43	The Aluminium Corporation of India Limited (Acquisition and Transfer of Aluminium Undertaking) Act, 1984	356
44	The Banking Service Commission Act, 1984	372
45	The Employees' State Insurance (Amendment) Act, 1984	386
46	The Punjab Appropriation (No. 2) Act, 1984	392
47	The Pondicherry Appropriation (No. 2) Act, 1984	396
48	The Electricity Supply (Amendment) Act, 1984	REPEALED 399
49	The Industrial Disputes (Amendment) Act, 1984	REPEALED 400
50	The Appropriation (No. 4) Act, 1984	404
51	The Multi-State Co-operative Societies Act, 1984	407
52	The Indian Veterinary Council Act, 1984	458
53	The Estate Duty (Amendment) Act, 1984	487
54	The Levy Sugar Price Equalisation Fund (Amendment) Act, 1984	489
55	The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984	493
56	The Cinematograph (Amendment) Act, 1984	REPEALED 510
57	The Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984	511
58	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984	REPEALED 529
59	The University Grants Commission (Amendment) Act, 1984	531
60	The National Security (Second Amendment) Act, 1984	REPEALED 535
61	The Terrorist Affected Areas (Special Courts) Act, 1984	537
62	The Industrial Reconstruction Bank of India Act, 1984	547
63	The Dowry Prohibition (Amendment) Act, 1984	593
64	The Banking Laws (Amendment) Act, 1984	REPEALED 597
65	The Copyright (Amendment) Act, 1984	REPEALED 599
66	The Family Courts Act, 1984	603
67	The Taxation Laws (Amendment) Act, 1984	611
68	The Land Acquisition (Amendment) Act, 1984	647
69	The Wakf (Amendment) Act, 1984	657
	The Constitution (Forty-seventh Amendment) Act, 1984	708
	The Constitution (Forty-eighth Amendment) Act, 1984	709
	The Constitution (Forty-ninth Amendment) Act, 1984	710
	The Constitution (Fiftieth Amendment) Act, 1984	712

**TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION
OF 1984**

**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 1984 Act by which affected
1	2	3	4	5
1872	1	Indian Evidence Act, 1872	S. 111 A inserted (w.e.f. 14-7-1984).	61, s. 20.
1891	16	Bankers' Books Evidence Act, 1891	S. 2 amended (w.e.f. 15-2-1984). S. 8 inserted (w.e.f. 15-2-1984).	1, s. 2. <i>Ibid.</i> , s. 2.
1894	1	Land Acquisition Act, 1894	Ss. 1, 3, 4, 5A, 6, 9, 11, 14, 17, 19, 23, 24, 28, 34, 38A, 39, 40, 45, 46, 53, 55 amended. Ss. 11A, 13A, 15A, 28A, 51A inserted. S. 25 substituted. S. 38 omitted.	68, ss. 2, 3, 4, 5, 6, 7, 8, 11, 13, 14, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, 28, 29. <i>Ibid.</i> , ss. 9, 10, 12, 19, 27. <i>Ibid.</i> , s. 17. <i>Ibid.</i> , s. 23.
1923	8	Workmen's Compensation Act, 1923	Ss. 2, 15, 35 amended (w.e.f. 1-7-1984). S. 4, Schedule III, Schedule IV, substituted (w.e.f. 1-7-1984).	22, ss. 2, 4, 5. <i>Ibid.</i> , ss. 3, 6, 7.
1934	2	Reserve Bank of India Act, 1934	Ss. 17, 33, 40, 45H, 45I, 58B, 58E amended (w.e.f. 15-2-1984). Ss. 42, 43 amended (w.e.f.). Chapter III (ss. 45R, 45S and 45T) inserted (w.e.f. 15-2-1984).	1, ss. 3, 4, 5, 8, 9, 11, 12. <i>Ibid.</i> , ss. 6, 7. <i>Ibid.</i> , s. 10.
1934	2	Reserve Bank of India Act, 1934	Ss. 2, 17, 42, 46C amended (w.e.f.)	62, s. 71 and Third Schedule.
1942	61	Multi-unit Co-operative Societies Act, 1942	<i>Repealed.</i>	51, s. 110.
1944	1	Central Excises and Salt Act, 1944	Ss. 2, 3, 4, 35B, 35D, 35E amended. First Schedule amended (w.e.f. 1-8-1984). S. 35EE inserted.	21, ss. 44, 45, 46, 47, 48, 49. <i>Ibid.</i> , s. 51 and Third Schedule and Fourth Schedule. <i>Ibid.</i> , s. 50.
1947	14	Industrial Disputes Act, 1947	Ss. 2, 25F, 25M, 25Q amended (w.e.f. 18-8-1984). S. 25N substituted (w.e.f. 18-8-1984).	49, ss. 2, 3, 4, 6. <i>Ibid.</i> , s. 55
1947	14	Industrial Disputes Act, 1947	S. 2 amended (w.e.f.)	62, s. 71 and Third Schedule.
1948	34	Employees' State Insurance Act, 1948	Ss. 2, 17, 39, 42, 50, 56, 78, 95, 96, 97, First Schedule amended (w.e.f.). S. 47 Third Schedule substituted (w.e.f.).	45, ss. 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13. <i>Ibid.</i> , ss. 6, 14,

1	2	3	4	5
1948	53	Oilfields (Regulation and Development) Act, 1948	S. 6A amended. S. 10 substituted.	20, s. 2. <i>Ibid.</i> , s. 3.
1948	54	Electricity (Supply) Act, 1948	Ss. 28, 29 amended (w.e.f. 1-10-1984).	48, ss. 2, 3.
1949	10	Banking Regulation Act, 1949	Ss. 5, 7, 8, 10A, 10B, 10D, 19, 20, 22, 29, 34A, 35, 35B, 36AB, 36AD, 42, 45, 45A and 45-J, 45-S, 46, 47, 51, 52 amended (w.e.f. 15-2-1984). S. 56 partly amended (w.e.f. 15-2-1984) and partly (w.e.f.). S. 24 amended (w.e.f.). Ss. 10BB, 21A inserted (w.e.f. 15-2-1984).	1, ss. 13, 14, 15, 16, 17, 20, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41. <i>Ibid.</i> , s. 42. <i>Ibid.</i> , s. 26. <i>Ibid.</i> , ss. 18, 24.
1949	10	Banking Regulation Act, 1949	Part IIIB (ss. 45Y, 45Z, 45ZA, 45ZB, 45ZC, 45ZD, 45ZE, 45ZF) inserted (w.e.f.). S. 10C substituted (w.e.f. 15-2-1984). S. 18 substituted (w.e.f.). Ss. 5, 18, 34A, 36AD, 56 amended (w.e.f.).	<i>Ibid.</i> , s. 37. <i>Ibid.</i> , s. 19. <i>Ibid.</i> , s. 21. 62, s. 71 and Third Schedule.
1951	29	Visva-Bharati Act, 1951	Ss. 13, 18, 24, 28, 32, 34, Second Schedule, Statutes amended (w.e.f. 8-8-1984). Throughout the Act and in all Statutes for the words and brackets "Bhavana (College)" the word "Bhavana" has been substituted and for the word "teacher" the word "Adhyapaka" has been substituted (w.e.f. 8-8-1984).	31, ss. 8, 12, 15, 18, 20, 21, 26, 27. <i>Ibid.</i> , s. 2.
1951	65	Industries (Development and Regulation) Act, 1951	Ss. 3, 6, 10, 12, 14, 16, and 17, 19, 20 and 21, 22 and 23, 25, 27, 29 and 30, 35 and 36, 37 and 38, substituted (w.e.f. 8-8-1984). Cs. 5A and 5B, 44A inserted (w.e.f. 8-8-1984). S. 15, First Schedule omitted (w.e.f. 8-8-1984). Ss. 3, 24, 29B amended (w.e.f. 12-1-1984).	<i>Ibid.</i> , ss. 3, 5, 6, 7, 9, 11, 13, 14, 16, 17, 19, 22, 23. <i>Ibid.</i> , ss. 4, 24. <i>Ibid.</i> , ss. 10, 25. 4, ss. 2, 4, 5.
1952	37	Cinematograph Act, 1952	S. 11A inserted (w.e.f. 12-1-1984). S.7, amended. S. 6B omitted.	<i>Ibid.</i> , s. 3. 56, s. 3. <i>Ibid.</i> , s. 2.
1953	34	Estate Duty Act, 1953	Ss.5A, 34, 85 amended. S. 5B inserted.	53, ss. 2, 4, 5. <i>Ibid.</i> , s. 3.

1	2	3	4	5
1954	29	Wakf Act, 1954	Ss. 1, 3, 4, 5, 6, 7, 8D, 9, 13, 15, 16, 23, 25, 26, 27, 28, 29, 31, 33, 34, 35, 36, 38, 39, 40, 41, 43, 44, 45, 46, 49, 51, 57, 58, 59, 61, 64, 65, 66A, 66B, 67, 69 amended (w.e.f.).	69, ss. 2, 3, 4, 5, 6, 8, 9, 10, 13, 14, 16, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 44, 45, 46, 49, 50, 53, 54, 55, 56, 60, 61, 63, 64, 66, 68.
			Ss. 6A, 15A, 15B, 15C and 15D, 21A, 21B, 21C, 21D, 21E, and 21F, 22A and 22B, 26A and 26B, 31A, 36C, 36D, 36E and 36F, 41A and 41B, 43B, 43C, 43D, 43E and 43F, 46A and 46B, 47A, 55A, 55B, 55C, 55D, 55E and 55F, 61A, 63A and 63B, 66D, 66E, 66F, 66G and 66H, 67A inserted (w.e.f.).	<i>Ibid.</i> , ss. 7, 15, 18, 20, 24, 29, 35, 40, 43, 47, 48, 52, 57, 59, 65, 67.
			Ss. 10, 21, 22, 36A, 43A, 55, 62, 66 substituted (w.e.f.).	<i>Ibid.</i> , ss. 11, 17, 19, 34, 42, 51, 58, 62.
			S. 11 omitted (w.e.f.).	<i>Ibid.</i> , s. 12.
1955	10	Essential Commodities Act, 1955	S. 7A inserted (w.e.f.).	34, s. 2.
1955	23	State Bank of India Act, 1955	Ss. 40, 42, 43, 49, 50 amended (w.e.f. 15-2-1984).	1, ss. 44, 45, 46, 47, 48.
			S. 35A inserted (w.e.f. 15-2-1984)	<i>Ibid.</i> , s. 43.
1955	23	State Bank of India Act, 1955	S. 43A inserted.	64, s.2.
1956	3	University Grants Commission Act, 1956	Ss. 12, 12A, 14, 25, 26, 27, amended (w.e.f. 1-10-1984).	59, ss. 2, 3, 4, 5, 6, 7.
			Ss. 12A, 28, inserted (w.e.f. 1-10-1984).	<i>Ibid.</i> , ss. 3, 6, 8.
1957	14	Copyright Act, 1957	Ss. 2, 51, 63, 64, 65, amended (w.e.f. 8-10-1984).	65, ss. 2, 3, 5, 7, 8.
			Ss. 52A, 63A, 68A inserted (w.e.f. 8-10-1984).	<i>Ibid.</i> , ss. 4, 6, 9.
1957	27	Wealth-tax Act, 1957	Ss. 5, 21A amended (w.e.f. 1-4-1985).	21, s. 34.
			Ss. 4, 5 amended (w.e.f. 1-4-1985).	67, ss. 53, 54.
			Ss. 17A, 18, 18B, 22A, 22C, 22D, 22H, 22M, 25, 31, 34A, 35 amended (w.e.f. 1-10-1984).	<i>Ibid.</i> , ss. 56, 57, 58, 60, 61, 62, 63, 64, 65, 66, 67, 69.
			S. 8A substituted (w.e.f. 1-10-1984).	<i>Ibid.</i> , s.55.
			Chapter IV A (S.18C), 34ACC, 35EE inserted (w.e.f. 1-10-1984).	<i>Ibid.</i> , ss. 59, 68, 70.
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	First Schedule amended.	21, s.53 and Fifth Schedule.
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	Long title, Second Schedule amended (w.e.f. 1-4-1984)	29, ss. 2, 3.
1957	61	Delhi Development Act, 1957	Ss. 5, 29, 30, 31, 48, 50, 52, 56, amended (w.e.f.).	38, ss. 2, 3, 4, 5, 8, 9, 10, 11.

1	2	3	4	5
1957	61	Delhi Development Act, 1957— <i>Contd.</i>	Ss. 31A, 31B, 31C, 31D and 31E, 34A inserted (w.e.f.).	38 ss. 6, 7.
1957	66	Delhi Municipal Corporation Act, 1957	Ss. w, 343, 344, 345, 452, 456, 461, Twelfth Schedule amended (w.e.f.). Ss. 345A, 347A, 347B, 347C, 347D and 347E, 466A, <i>Ibid.</i> , ss. 6, 7, 11, inserted (w.e.f.). S. 467 substituted (w.e.f.). <i>Ibid.</i> , s. 12.	42, ss. 2, 3, 4, 5, 8, 9, 10, 13.
1958	18	Gift-tax Act, 1958	S. 2 amended (w.e.f. 1-4-1984). 67 s. 71. S. 5 amended (w.e.f. 1-4-1985). <i>Ibid.</i> , s. 72. Ss. 24, 32, and 33A, 34 amended (w.e.f. 1-10-1984). S. 7A substituted (w.e.f. 1-10-1984).	67, s. 73.
1958	44	Merchant Shipping Act, 1958	Ss. 3, 24, 101, 105, 108, 132, 137, 141, 159, 160, 194, 204, 299A, 365, 402, 436 amended (w.e.f.). S. 102 substituted (w.e.f.). <i>Ibid.</i> , s. 5.	41 ss. 2, 3, 4, 6, 7, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 22.
1958	59	Delhi Rent Control Act, 1958	Ss. 38A and 38B inserted.	37, s. 2.
1959	38	State Bank of India (Subsidiary Banks) Act, 1959	Ss. 39 and 40, 56 amended.	<i>Ibid.</i> , ss. 3, 4.
1961	28	Dowry Prohibition Act, 1961	Ss. 43, 44, 53, 62, 63 amended (w.e.f. 15-2-1984). Ss. 36A, 38A inserted (w.e.f. 15-2-1984).	1, ss. 51, 52, 53, 54, 55. <i>Ibid.</i> , ss. 49, 50.
1961	43	Income-tax Act, 1961	Ss. 2, 3, 6, 9 amended (w.e.f.). Ss. 4, 7, 8 substituted (w.e.f.). Ss. 10, 11, 33B, 40, 80L, 80M, 80N, 80-O, 80U, 161, 164, 246, Ninth Schedule amended (w.e.f. 1-4-1985). Ss. 35, 35C, 36, 80CC, 80E, Chapter XXB, 252, 269T, 281A amended (w.e.f. 1-4-1984).	63, ss. 2, 3, 5, 8. <i>Ibid.</i> , ss. 4, 6, 7. 21, ss. 3, 4, 5, 9, 15, 16, 17, 18, 19, 20, 21, 33. <i>Ibid.</i> , ss. 6, 7, 8, 12, 14, 24, 28, 29, 32.
			S. 40A amended (partly w.e.f. 1-4-1985 and partly w.e.f. 1-4-1980). Ss. 193, 194, 269C, 269F, 269P amended (w.e.f. 1-6-1984). Ss. 44AB, 271B, inserted (w.e.f. 1-4-1985). Ss. 269SS, 276DD inserted (w.e.f. 1-4-1984). S. 80D omitted (w.e.f. 1-4-1985).	<i>Ibid.</i> , s. 10. <i>Ibid.</i> , ss. 22, 23, 25, 26, 27. <i>Ibid.</i> , ss. 11, 30. <i>Ibid.</i> , ss. 28, 31. <i>Ibid.</i> , s. 13.

1	2	3	4	5
1961	43	Income-tax Act, 1961- <i>contd.</i>	Ss. 2, 13, 23 (partly), 40, 40A, 45, 49, 64, 80, 139, 214, 215, 273 amended (w.e.f. 1-4-1985). S. 23 (partly), amended (w.e.f. 1-4-1984). Ss. 9, 10 amended (w.e.f. 1-4-1982). Ss. 16, 187 amended (w.e.f. 1-4-1975). Ss. 17, 80CC amended (w.e.f. 1-4-1978). Ss. 54E, 279 amended (w.e.f. 1-4-1984). S. 80C amended (partly w.e.f. 1-4-1971 and partly w.e.f. 1-4-1983). S. 80L amended (partly w.e.f. 1-4-1972 and partly w.e.f. 1-4-1976). Ss. 130, 132, 132B, 139, 201, 213 to 217, 220, 243, 244 and 269K and Second Schedule, 144B, 146, 153, 154, 155, 186, 220, 231, 245A, 245C, 245D, 245E, 245H, 245M, 246, 253, 263, 271, 273A, 288 amended (w.e.f. 1-10-1984). S. 208 amended (w.e.f. 2-4-1985). Ss. 25A, 47A inserted (w.e.f. 1-4-1985). Chapter XIVA (S. 158A) inserted (w.e.f. 1-10-1984).	67, ss. 2, 5, 8, 10, 11, 12, 14, 17, 18, 25, 35, 36, 49. <i>Ibid.</i> , s. 8. <i>Ibid.</i> , ss. 3, 4. <i>Ibid.</i> , ss. 6, 33. <i>Ibid.</i> , ss. 7, 20. <i>Ibid.</i> , ss. 16, 51. <i>Ibid.</i> , s. 19. <i>Ibid.</i> , s. 21. <i>Ibid.</i> , ss. 22, 23, 24, 26, 27, 28, 29, 30, 32, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 52. <i>Ibid.</i> , s. 34. <i>Ibid.</i> , ss. 9, 13. <i>Ibid.</i> , s. 31. <i>Ibid.</i> , s. 15.
1961	47	Deposit Insurance and Credit Guarantee Corporation Act, 1961	Ss. 2, 4, 6, 11, 13, 13A, 16, 32, 50 amended (w.e.f. 15-2-1984).	1, ss. 56, 57, 58, 59, 60, 61, 62, 63, 64.
1962	9	Estate Duty (Distribution) Act, 1962	Long title, s. 3 amended (w.e.f. 1-4-1984).	32, ss. 2, 3.
1962	52	Customs Act, 1962	Ss. 28, 61, 129, 129A, 129C, 129D amended.	21, ss. 37, 38, 39, 40, 41, 42.
			S. 129DD inserted.	<i>Ibid.</i> , s. 43.
1963	20	Government of Union Territories Act, 1963	S. 3 amended. S. 43E inserted.	19, s. 2. <i>Ibid.</i> , s. 3.
1963	22	Export (Quality Control and Inspection) Act, 1963	Ss. 2, 3, 7, 11, 17 amended (w.e.f. 2-7-1984). Ss. 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I, 10J, 10K, 10L, 10M, 10N, 10-O and 10P, 11A, 11B and 11C, 16A inserted (w.e.f. 2-7-1984).	40, ss. 2, 3, 4, 6, 9. <i>Ibid.</i> , ss. 5, 7, 8.

1	2	3	4	5
1963	52	Unit Trust of India Act, 1963	S. 32 amended (w.e.f. 1-4-1985).	21, s. 54.
1964	7	Companies (Profits) Surtax Act, 1964	Ss. 7B to 7D, 13, 14, 16 amended (w.e.f. 1-10-1984).	67, ss. 77, 78, 79, 80.
1968	45	Gold (Control) Act, 1968	Ss. 81B and 82 amended.	21, s. 55.
1969	54	Monopolies and Restrictive Trade Practices Act, 1969	Ss. 2, 3, 6, 12, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 31, Heading of Chapter V, 33, 35, 37, 38, 39, 43, 44, 45, 46, 47, 48, 49, 50, 55, 56, 60, 61, 66, 67 amended (w.e.f. 1-8-1984).	30, ss. 3, 5, 6, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 26, 27, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 44, 45, 47, 48, 49, 50.
			Ss. 2A, 12A, 12B and 12C, 13A, 27A and 27B, Chapter IIIA (30A, 30B, 30C, 30D, 30E, 30F and 30G), Part B of Chapter V (36A, 36B, 36C, 36D and 36E), 48A, 48B, 48C, 52A and 52B, Schedule inserted (w.e.f. 1-8-1984).	<i>Ibid.</i> , ss. 4, 10, 11, 22, 23, 30, 40, 43, 51.
			The expressions "Director" and "Registrar" wherever they occur in the Act substituted by the expression "Director General" (w.e.f. 1-8-1984).	<i>Ibid.</i> , s. 2.
			Ss. 8, 11, 32 substituted (w.e.f. 1-8-1984).	30, ss. 7, 8, 25.
			Ss. 34, 58 omitted (w.e.f. 1-8-1984).	<i>Ibid.</i> , ss. 28, 46.
1970	5	Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970	S. 12A inserted.	64, s. 4.
1971	40	Public Premises (Eviction of Unauthorised Occupants) Act, 1971	Ss. 5A, 5B, 9, 11, 13, 15, 18 amended (w.e.f. 13-11-1984).	35, ss. 2, 3, 5, 6, 8, 9, 10.
			Ss. 5C, 11A inserted (w.e.f. 13-11-1984).	<i>Ibid.</i> , ss. 4, 7.
1971	56	Comptroller and Auditor-General's Duties, Powers and Conditions of Service) Act, 1971	Ss. 6, 14 amended.	2, ss. 2, 3.
			S. 19A inserted.	<i>Ibid.</i> , s. 4.
1972	39	Payment of Gratuity Act, 1972	Ss. 2, 4, 7, 13 amended (w.e.f. 1-7-1984).	25, ss. 2, 3, 4, 6.
			Ss. 7A and 7B inserted (w.e.f. 1-7-1984).	<i>Ibid.</i> , s. 5.
1972	39	Payment of Gratuity Act, 1972	Ss. 1, 5 amended.	26, ss. 2, 5.
			S. 2 amended (w.e.f. 11-2-1981).	<i>Ibid.</i> , s. 3.
			S. 2A inserted (w.e.f. 11-2-1981).	<i>Ibid.</i> , s. 4.
1974	12	Economic Offences (Inapplicability of Limitation) Act, 1974	S. 2 and Schedule amended.	65, s. 10.
1974	38	Compulsory Deposit Scheme (Income-tax Payers) Act, 1974	S. 13 amended (w.e.f. 1-10-1984).	67, s. 81.

1	2	3	4	5
1974	45	Interest Act, 1974	Ss. 17, 19, amended (w.e.f. 1-10-1984).	67, ss. 82,83.
1974	52	Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974	S. 9 substituted (w.e.f. 13-7-1984).	58, s. 2.
1975	51	Customs Tariff Act, 1975	First Schedule amended.	21, s. 35 and Second Schedule.
1976	21	Regional Rural Banks Act, 1976	S. 30 amended (w.e.f. 15-2-1984). 1, s.70.	
1976	31	Levy Sugar Price Equalisation Fund Act, 1976	Ss. 2,3,5,6,11,13, amended.	54, ss. 2,3,4,5,6,7.
1979	24	Union Duties of Excise (Distribution) Act, 1979	Long title amended (w.e.f. 1-4-1984). S. 3 substituted (w.e.f. 1-4-1984). <i>Ibid.</i> , s. 3.	27, s. 2.
1980	14	Union Duties of Excise (Electricity) Distribution Act, 1980	Long title amended (w.e.f. 1-4-1984). S. 3 substituted (w.e.f. 1-4-1984). <i>Ibid.</i> , s. 3.	28, s. 2.
1980	40	Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980	Ss. 3,9,10,19 amended (w.e.f. 1, ss. 71,72,73,75. 15-2-1984). S. 16A inserted (w.e.f. 15-2-1984) <i>Ibid.</i> , s. 74.	
1980	40	Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980	S. 12A inserted.	64, s. 5.
1980	65	National Security Act, 1980	Ss. 3, 8 amended in its application to the State of Punjab and the Union territory of Chandigarh (w.e.f. 5-4-1984). S. 14A inserted in its application to the State of Punjab and Union territory of Chandigarh (w.e.f. 5-4-1984).	24, ss. 3, 4, <i>Ibid.</i> , s. 5.
1980	65	National Security Act, 1980	S. 5A inserted (w.e.f. 21-6-1984). S. 14 amended (w.e.f. 21-6-1984). <i>Ibid.</i> , s. 3.	60, s. 2.
			S. 14 A as applicable to the State of Punjab and Union territory of Chandigarh amended (w.e.f. 21-6- 984).	<i>Ibid.</i> , s. 4.

PART II—CENTRAL ORDINANCES REPEALED

Year of Ordinan- ce	No. of Ordinance	Short title of Ordinance	No. and section of 1984 Act by which repealed
1	2	3	
1984	1	Industries (Development and Regulation) Amendment Ordinance, 1984.	4, s. 7.
1984	2	Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984.	16, s. 29.
1984	3	Prevention of Damage to Public Property Ordinance, 1984.	3, s. 7.
1984	4	Incheek Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Ordinance, 1984.	17, s. 33.
1984	5	National Security (Amendment) Ordinance 1984.	24, s. 6.
1984	6	National Security (Second Amendment) Ordinance, 1984.	60, s. 5.
1984	7	Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984.	55, s. 33.
1984	8	Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1984.	58, s. 3.
1984	9	Terrorist Affected Areas (Special Courts) Ordinance, 1984.	61, s. 21.

PART III— CONSTITUTION OF INDIA AMENDED

How affected	No. and section of 1984 Act by which affected
Ninth Schedule amended	Constitution (Forty-seventh Amendment) Act, 1984, s. 2.
Article 356 amended	Constitution (Forty-eighth Amendment) Act, 1984, s. 2.
Article 244, Fifth Schedule, Sixth Schedule amended (w.e.f.).	Constitution (Forty-ninth Amendment) Act, 1984, s. 2.
Article 33 substituted	Constitution (Fiftieth Amendment) Act, 1984, s. 2.

PART IV-- STATE ACTS AMENDED

Year of Act	No. of Act	Short Title	How affected	No. and section of 1984 Act by which affec
1911	III	Punjab Municipal Act, 1911 as in force in New Delhi	Ss. 3,170E, 172, 173, 174A, 175 and 190, 192A, 195, 195A, 225, 228, 240 amended (w. e.f.).	39, Ss.2, 3, 4, 5, 6, 7, 8, 9, 11, 14, 15.
1974	14	Punjab Commercial Crops Cess Act, 1974.	Ss. 195B and 195C, 225A, 225B, 225C, and 225D, 227A inserted (w.e.f.). S.3. amended	<i>Ibid.</i> , ss. 10,12, 13. 23, s.2.

THE BANKING LAWS (AMENDMENT) ACT, 1983

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

2. Amendment of Act 18 of 1891.

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

3. Amendment of section 17.
4. Amendment of section 33.
5. Amendment of section 40.
6. Amendment of section 42.
7. Amendment of section 43.
8. Amendment of section 45H.
9. Amendment of section 45I.
10. Insertion of new Chapter after Chapter IIIB.
11. Amendment of section 58B.
12. Amendment of section 58E.

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

13. Amendment of section 5.
14. Amendment of section 7.
15. Amendment of section 8.
16. Amendment of section 10A.
17. Amendment of section 10B.

Arrangement of Sections

SECTIONS

18. Insertion of new section 10BB.
19. Substitution of new section for section 10C.
20. Amendment of section 10D.
21. Substitution of new section for section 18.
22. Amendment of section 19.
23. Amendment of section 20.
24. Insertion of new section 21A.
25. Amendment of section 22.
26. Amendment of section 24.
27. Amendment of section 29.
28. Amendment of section 34A.
29. Amendment of section 35.
30. Amendment of section 35B.
31. Amendment of section 36AB.
32. Amendment of section 36AD.
33. Amendment of section 42.
34. Amendment of section 45.
35. Amendment of sections 45A and 45J.
36. Amendment of section 45S.
37. Insertion of new Part IIIIB.
38. Amendment of section 46.
39. Amendment of section 47.
40. Amendment of section 51.
41. Amendment of section 52.
42. Amendment of section 56.

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

43. Insertion of new section 35A
44. Amendment of section 40.
45. Amendment of section 42.
46. Amendment of section 43.
47. Amendment of section 49.
48. Amendment of section 50.

Arrangement of Sections

3

CHAPTER VI

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

SECTIONS

49. Insertion of new section 36A.
50. Insertion of new section 38A.
51. Amendment of section 43.
52. Amendment of section 44.
53. Amendment of section 53.
54. Amendment of section 62.
55. Amendment of section 63.

CHAPTER VII

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

56. Amendment of section 2.
57. Amendment of section 4.
58. Amendment of section 6.
59. Amendment of section 11.
60. Amendment of section 13.
61. Amendment of section 13A.
62. Amendment of section 16.
63. Amendment of section 32.
64. Amendment of section 50.

CHAPTER VIII

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

65. Amendment of section 3.
66. Amendment of section 9.
67. Amendment of section 10.
68. Insertion of new section 16A.
69. Amendment of section 19.

Arrangement of Sections**CHAPTER IX****AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976****SECTIONS**

70. Amendment of section 30.

CHAPTER X**AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980**

71. Amendment of section 3.
72. Amendment of section 9.
73. Amendment of section 10.
74. Insertion of new section 16A.
75. Amendment of section 19.

THE BANKING LAWS (AMENDMENT) ACT, 1983

No. 1 OF 1984

[12th January, 1984.]

An Act further to amend the Bankers' Books Evidence Act, 1891, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Banking Laws (Amendment) Act, 1983.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title and commen-
cement.

CHAPTER II

AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

2. In the Bankers' Books Evidence Act, 1891,—

(a) in section 2,—

(i) for clause (4), the following clause shall be substituted, namely:—

(4) "legal proceeding" means,—

(i) any proceeding or inquiry in which evidence is or may be given;

(ii) an arbitration; and

Amend-
ment of
Act 18
of 1891.

¹ 15th February 1984, the date on which all the provisions of the Act except sections 6, 7, 21, 26, 37 and clauses (V) and (IX) of section 42 thereof shall come into force vide Notification No. S.O. 198 (E) dated 14-2-1984 Gazette of India, 1984, Part II, Section 3, Sub-Section (ii).

2 of 1974.

(iii) any investigation or inquiry under the Code of Criminal Procedure, 1973, or under any other law for the time being in force for the collection of evidence, conducted by a police officer or by any other person (not being a magistrate) authorised in this behalf by a magistrate or by any law for the time being in force;;

(ii) in clause (8), for the words "such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title", the following shall be substituted, namely:—

"and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the bank's business after the date on which the copy had been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title";

(b) after section 7, the following section shall be inserted, namely:—

Order of court to be construed to be order made by specified officer.

8. In the application of sections 5, 6 and 7 to any investigation or inquiry referred to in sub-clause (iii) of clause (4) of section 2, the order of a court or a Judge referred to in the said sections shall be construed as referring to an order made by an officer of a rank not lower than the rank of a Superintendent of Police as may be specified in this behalf by the appropriate Government.

Explanation.—In this section, "appropriate Government" means the Government by which the police officer or any other person conducting the investigation or inquiry is employed.'

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Amendment of section 17.

3. In section 17 of the Reserve Bank of India Act, 1934 (hereafter in this Chapter referred to as the Reserve Bank Act), in clause (4B), in the proviso, for the words "three crores of rupees", the words "fifteen crores of rupees" shall be substituted.

2 of 1934.

Amendment of Section 33.

4. In section 33 of the Reserve Bank Act, in sub-clause (a) of clause (i) of sub-section (6), for the word "notified", the word "approved" shall be substituted.

Amendment of section 40.

5. In section 40 of the Reserve Bank Act, in the *Explanation*, for the words and figures "Foreign Exchange Regulation Act, 1947", the words and figures "Foreign Exchange Regulation Act, 1973" shall be substituted.

7 of 1947.

46 of 1973.

Amend-
ment of
section
42.

6. In section 42 of the Reserve Bank Act,—

(a) in the *Explanation* to sub-section (1),—

(i) in clause (a), for the words "of a week", the words "of a fortnight" shall be substituted;

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

(b) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;'

(iii) in clause (c),—

(A) in sub-clause (iii), after the words "State Government", the words and figures "or from the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962" shall be inserted;

(B) after sub-clause (iv), the following sub-clause shall be inserted, namely:—

"(v) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;"

(iv) in clause (d), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iiiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;"

(v) in clause (e), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iiiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;"

(b) to sub-section (1A), the following proviso shall be added, namely:—

"Provided that the Bank may, by a separate notification in the Gazette of India, specify different dates in respect of a bank subsequently included in the Second Schedule.";

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

"(1C) The Bank may, for the purposes of this section, specify from time to time with reference to any transaction or class of transactions that such transaction or transactions shall be regarded as liability in India of a scheduled bank, and if any question arises as to whether any transaction or class of transactions shall be regarded, for the purposes of this section, as liability in India of a scheduled bank, the decision of the Bank thereon shall be final.";

26 of 1962.

40 of 1980

40 of 1980.

(d) in sub-section (2),—

(i) for the words "at the close of business on each Friday, and every such return shall be sent not later than five days after the date to which it relates", the words "at the close of business on each alternate Friday, and every such return shall be sent not later than seven days after the date to which it relates" shall be substituted;

(ii) in the second proviso, after the words "Provided further that where", the words "such alternate" shall be inserted;

(iii) for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that where the Bank is satisfied that the furnishing of a fortnightly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may allow such bank—

(i) to furnish a provisional return for the fortnight within the period aforesaid to be followed by a final return not later than twenty days after the date to which it relates, or

(ii) to furnish in lieu of a fortnightly return a monthly return to be sent not later than twenty days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.;"

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

"(2A) Where the last Friday of a month is not an alternate Friday for the purpose of sub-section (2), every scheduled bank shall send to the Bank, a special return giving the details specified in sub-section (2) as at the close of business on such last Friday or where such last Friday is a public holiday under the Negotiable Instruments Act, 1881 as at the close of business on the preceding working day and such return shall be sent not later than seven days after the date to which it relates.;"

(f) in sub-sections (3) and (3A), for the word "week" wherever it occurs, the word "fortnight" shall be substituted.

Amend-
ment of
section
43.

Amend-
ment of
section
45H.

7. In section 43 of the Reserve Bank Act, for the word "week", the word "fortnight" shall be substituted.

8. In section 45H of the Reserve Bank Act, for the words and figures "a banking institution notified under section 51 of that Act", the words, brackets, letters and figures "a corresponding new bank as defined in clause (da) of section 5 of that Act or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959" shall be substituted.

9. In section 451 of the Reserve Bank Act,—

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

'(bb) "deposit" includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include,—

(i) amounts raised by way of share capital;

(ii) amounts contributed as capital by partners of a firm;

(iii) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;

(iv) any amount received from,—

(a) the Development Bank,

(b) a State Financial Corporation,

(c) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or

(d) any other institution that may be specified by the Bank in this behalf;

(v) amounts received in the ordinary course of business, by way of—

(a) security deposit,

(b) dealership deposit,

(c) earnest money, or

(d) advance against orders for goods, properties or services;

(vi) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and

(vii) any amount received by way of subscriptions in respect of a chit.

Explanation I.—“Chit” has the meaning assigned to it in clause (b) of section 2 of the Chit Funds Act, 1982.

Explanation II.—Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;

(ii) in clause (d), the words “, of which the capital subscribed by its partners exceeds one lakh of rupees” shall be omitted;

(iii) in clause (e), for the words “, co-operative society or firm”, the words “or co-operative society” shall be substituted.

Insertion
of new
Chapter
after
Chapter
IIIB.

10. After Chapter IIIB of the Reserve Bank Act, the following Chapter shall be inserted, namely:—

“CHAPTER IIIC”

PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

Interpre-
tation.

Deposits
not
to be
accepted
in certain
cases.

45R. The words and expressions used in this Chapter and defined in Chapter IIIB shall have the meanings respectively assigned to them therein.

45S. (1) No person, being an individual or a firm or an unincorporated association of individuals shall, at any time, have deposits from more than the number of depositors specified against each, in the table below:—

TABLE

(i) Individual

Not more than twenty-five depositors excluding depositors who are relatives of the individual.

(ii) Firm

Not more than twenty-five depositors per partner and not more than two hundred and fifty depositors in all, excluding, in either case, depositors who are relatives of any of the partners.

(iii) Unincorporated association of individuals

Not more than twenty-five depositors per individual and not more than two hundred and fifty depositors in all, excluding, in either case, depositors who are relatives of any of the individuals constituting the association.

(2) Where at the commencement of section 10 of the Banking Laws (Amendment) Act, 1983, the deposits held by any such person are not in accordance with sub-section (1), he shall, before the expiry of a period of two years from the date of such commencement, repay such of the deposits as are necessary for bringing the number of depositors within the relative limits specified in that sub-section.

*Explanation.—*For the purposes of this section,—

(a) a person shall be deemed to be a relative of another if, and only if,—

(i) they are members of a Hindu undivided family; or

- (ii) they are husband and wife; or
 (iii) the one is related to the other in the manner indicated in the List of relatives below:—

List of Relatives

1. Father. 2. Mother (including step-mother). 3. Son (including step-son). 4. Son's wife. 5. Daughter (including step-daughter). 6. Father's father. 7. Father's mother. 8. Mother's mother. 9. Mother's father. 10. Son's son. 11. Son's son's wife. 12. Son's daughter. 13. Son's daughter's husband. 14. Daughter's husband. 15. Daughter's son. 16. Daughter's son's wife. 17. Daughter's daughter. 18. Daughter's daughter's husband. 19. Brother (including step-brother). 20. Brother's wife. 21. Sister (including step-sister). 22. Sister's husband;

(b) a person in whose favour a credit balance is outstanding for a period not exceeding six months in any account relating to mutual dealings in the ordinary course of trade or business shall not, on account of such balance alone, be deemed to be a depositor.

2 of 1974.

45T. (1) Any court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973 may, on an application by an officer of the Bank or of the State Government authorised in this behalf stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such court, issue a warrant to search for such documents.

2 of 1974.

(2) A warrant issued under sub-section (1) shall be executed in the same manner and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973.”

Power
to issue
search
warrants.

11. In section 58B of the Reserve Bank Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

Amend-
ment of
section
58B.

“(5A) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, 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.

2 of 1974.

(5B) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to impose a sentence of fine in excess of the limit specified in that section on any person convicted under sub-section (5A).”

Amend-
ment of
section
58E.

12. In section 58E of the Reserve Bank Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that in respect of any offence punishable under sub-section (5A) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government.”

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amend-
ment of
section 5.

13. In section 5 of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the Banking Regulation Act),— 10 of 1949.

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

(a) “approved securities” means—

(i) securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Indian Trusts Act, 1882; 2 of 1882.

(ii) such of the securities authorised by the Central Government under clause (f) of section 20 of the Indian Trusts Act, 1882, as may be prescribed; 2 of 1882.

(b) after clause (d), the following clause shall be inserted, namely:—

(da) “corresponding new bank” means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; 5 of 1970.

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

(ffa) “Development Bank” means the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964; 18 of 1964.

(ffb) “Exim Bank” means the Export-Import Bank of India established under section 3 of the Export-Import Bank of India Act, 1981; 28 of 1981.

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

(l) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(e) clause (nb) and clause (nc) shall be re-lettered as clause (nd) and clause (ne), respectively, and before clause (nd) as so re-lettered, the following clauses shall be inserted, namely:—

21 of 1976. (nb) "Sponsor Bank" has the meaning assigned to it in the Regional Rural Banks Act, 1976;

23 of 1955. (nc) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955;.

14. In section 7 of the Banking Regulation Act, in sub-section (1), after the words "shall use as part of its name", the words "or in connection with its business" shall be inserted. Amend-
ment of
section
7.

15. In section 8 of the Banking Regulation Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply to any such business as is specified in pursuance of clause (o) of sub-section (1) of section 6."

16. In section 10A of the Banking Regulation Act, after sub-section (2), the following sub-section shall be inserted, namely:—

1 of 1956. "(2A) Notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force,—

(i) no director of a banking company, other than its chairman or whole-time director, by whatever name called, shall hold office continuously for a period exceeding eight years;

(ii) a chairman or other whole-time director of a banking company who has been removed from office as such chairman, or whole-time director, as the case may be, under the provisions of this Act shall also cease to be a director of the banking company and shall also not be eligible to be appointed as a director of such banking company, whether by election or co-option or otherwise, for a period of four years from the date of his ceasing to be the chairman or whole-time director, as the case may be."

17. In section 10B of the Banking Regulation Act,—

(a) in sub-section (1), for the words "shall have a chairman of its Board of directors", the words "shall have one of its directors as chairman of its Board of directors" shall be substituted;

(b) in sub-section (5), the words "but shall continue in office until his successor assumes office" shall be omitted;

(c) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) A chairman of the Board of directors whose term of office has come to an end, either by reason of his resignation or by reason of expiry of the period of his office, shall, subject to the approval of the Reserve Bank, continue in office until his successor assumes office."

Amend-
ment of
section
10B.

Inser-
tion of
new sec-
tion
10BB.

Power
of
Reserve
Bank to
appoint
chairman
of a
banking
company.

18. After section 10B of the Banking Regulation Act, the following section shall be inserted, namely:—

"10BB. (1) Where the office of the chairman of a banking company is vacant, the Reserve Bank may, if it is of opinion that the continuation of such vacancy is likely to adversely affect the interests of the banking company, appoint a person, eligible under sub-section (4) of section 10B to be so appointed, to be the chairman of the banking company and where the person so appointed is not a director of such banking company, he shall, so long as he holds the office of the chairman, be deemed to be a director of the banking company.

(2) The chairman so appointed by the Reserve Bank shall be in the whole-time employment of the banking company and shall hold office for such period not exceeding three years, as the Reserve Bank may specify, but shall, subject to other provisions of this Act, be eligible for reappointment.

(3) The chairman so appointed by the Reserve Bank shall draw from the banking company such pay and allowances as the Reserve Bank may determine and may be removed from office only by the Reserve Bank.

(4) Save as otherwise provided in this section, the provisions of section 10B shall, as far as may be, apply to the chairman appointed by the Reserve Bank under sub-section (1) as they apply to a chairman appointed by the banking company.”.

Substi-
tution of
new sec-
tion for
section
10C.

Chair-
man
and
certain
directors
not to
be re-
quired to
hold
qualifica-
tion
shares.

19. For section 10C of the Banking Regulation Act, the following section shall be substituted, namely:—

"10C. A chairman of a banking company (by whomsoever appointed) and a director of a banking company (appointed by the Reserve Bank under section 10A) shall not be required to hold qualification shares in the banking company.”.

Amend-
ment of
section
10D.

20. In section 10D of the Banking Regulation Act, after the words, figures and letters “in pursuance of section 10A or section 10B” the words, figures and letters “or section 10BB” shall be inserted.

21. For section 18 of the Banking Regulation Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

Cash reserve.

18. (1) Every banking company, not being a scheduled bank, shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve Bank, or by way of net balance in current accounts or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the twentieth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day.

26 of 1881.

Explanation.—In this section, and in section 24,—

(a) “liabilities in India” shall not include—

(i) the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;

(ii) any advance taken from the Reserve Bank or from the Development Bank or from the Exim Bank or from the National Bank by the banking company;

(iii) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;

(b) “fortnight” shall mean the period from Saturday to the second following Friday, both days inclusive;

(c) “net balance in current accounts” shall, in relation to a banking company, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that banking company with the State Bank of India or a subsidiary bank or a corresponding new bank over the aggregate of the credit balances in current account held by the said banks with such banking company;

(d) for the purposes of computation of liabilities, the aggregate of the liabilities of a banking company to the State Bank of India, a subsidiary bank, a corresponding new bank, a regional rural bank, another banking company, a co-operative bank or any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the banking company;

(e) the expression “co-operative bank” shall have the meaning assigned to it in clause (cc) of section 56.

(2) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a banking company and, if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24 as liability in India of a banking company, the decision of the Reserve Bank thereon shall be final.”.

Amend-
ment of
section
19.

22. In section 19 of the Banking Regulation Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely:—

(a) the undertaking of any business which, under clauses (a) to (o) of sub-section (1) of section 6, is permissible for a banking company to undertake, or

(b) with the previous permission in writing of the Reserve Bank, the carrying on of the business of banking exclusively outside India, or

(c) the undertaking of such other business, which the Reserve Bank may, with the prior approval of the Central Government, consider to be conducive to the spread of banking in India or to be otherwise useful or necessary in the public interest.

Explanation.—For the purposes of section 8, a banking company shall not be deemed, by reason of its forming or having a subsidiary company, to be engaged indirectly in the business carried on by such subsidiary company.”.

Amend-
ment of
section
20.

23. In section 20 of the Banking Regulation Act, in sub-section (1), in clause (b), in sub-clause (iii), after the words “of which”, the words “, or the subsidiary or the holding company of which” shall be inserted.

Inser-
tion of
new
section
21A.

24. After section 21 of the Banking Regulation Act, the following section shall be inserted, namely:—

Rates
of
interest
charged
by
banking
com-
panies
not to
be sub-
ject to
scrutiny
by
Courts.

“21A. Notwithstanding anything contained in the Usurious Loans Act, 1918, or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive.”.

10 of 1918.

25. In section 22 of the Banking Regulation Act,—

(i) in sub-section (3),—

(a) in the opening portion, the words "all or any of" shall be omitted;

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

"(c) that the general character of the proposed management of the company will not be prejudicial to the public interest or the interest of its depositors;

(d) that the company has adequate capital structure and earning prospects;

(e) that the public interest will be served by the grant of a licence to the company to carry on banking business in India;

(f) that having regard to the banking facilities available in the proposed principal area of operations of the company, the potential scope for expansion of banks already in existence in the area and other relevant factors the grant of the licence would not be prejudicial to the operation and consolidation of the banking system consistent with monetary stability and economic growth;

(g) any other condition, the fulfilment of which would, in the opinion of the Reserve Bank, be necessary to ensure that the carrying on of banking business in India by the company will not be prejudicial to the public interest or the interests of the depositors.";

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

"(3A) Before granting any licence under this section to a company incorporated outside India, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that the conditions specified in sub-section (3) are fulfilled and that the carrying on of banking business by such company in India will be in the public interest and that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered in India and that the company complies with all the provisions of this Act applicable to banking companies incorporated outside India.";

(iii) in sub-section (4), in clause (iii), after the word, brackets and figure "sub-section (3)", the words, brackets, figure and letter "and sub-section (3A)" shall be inserted.

Amend-
ment of
section 24.

26. In section 24 of the Banking Regulation Act,—

(a) in sub-section (1), for the words "time and demand liabilities", the words "demand and time liabilities" shall be substituted;

(b) in sub-section (2A),—

(i) in clause (a), for the words and figures "shall maintain in India in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 25 per cent. of the total of its demand and time liabilities in India", the following shall be substituted, namely:—

"shall maintain in India,—

(A) in cash, or

(B) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time,

an amount which shall not, at the close of business on any day, be less than twenty-five per cent. or such other percentage not exceeding forty per cent. as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight";

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

"(b) in computing the amount for the purposes of clause (a),—

(i) the deposit required under sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India;

(ii) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or with the Reserve Bank or by way of net balance in current account in excess of the aggregate of the cash or balance or net balance required to be maintained under section 18;

(iii) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934;

(iv) the net balance in current accounts maintained in India by a scheduled bank;

(v) any balances maintained by a Regional Rural Bank in call or fixed deposit with its Sponsor Bank,

shall be deemed to be cash maintained in India.”;

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

Explanation.—For the purpose of clause (a) of this sub-section, the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities.”;

21 of 1976. (c) in sub-section (2B), the words and figures “established under section 3 of the Regional Rural Banks Act, 1976” shall be omitted;

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

(3) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than twenty days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section, and its demand and time liabilities in India at the close of business on each alternate Friday during the month, or if any such Friday is a public holiday, at the close of business on the preceding working day:

Provided that every Regional Rural Bank shall also furnish a copy of the said return to the National Bank.

(4) (a) If on any alternate Friday or, if such Friday is a public holiday, on the preceding working day, the amount maintained by a banking company at the close of business on that day falls below the minimum prescribed by or under clause (a) of sub-section (2A), such banking company shall be liable to pay to the Reserve Bank in respect of that day’s default, penal interest for that day at the rate of three per cent. per annum above the bank rate on the amount by which the amount actually maintained falls short of the prescribed minimum on that day; and

(b) if the default occurs again on the next succeeding alternate Friday, or, if such Friday is a public holiday, on the preceding working day, and continues on succeeding alternate Fridays or preceding working days, as the case may be, the rate of penal interest shall be increased to a rate of five per cent. per annum above the bank rate on each such shortfall in respect of that alternate Friday and each succeeding alternate Friday or preceding working day, if such Friday is a public holiday, on which the default continues.

(5) (a) Without prejudice to the provisions of sub-section (3), the Reserve Bank may require a banking company to furnish to it a return in the form and manner specified by it showing particulars of its assets maintained in accordance with this section and its demand and time liabilities in India, as at the close of business on each day of a month; and

(b) without prejudice to the provisions of sub-section (4), on the failure of a banking company to maintain as on any day, the amount so required to be maintained by or under clause (a) of sub-section (2A) the Reserve Bank may, in respect of such default, require the banking company to pay penal interest for that day as provided in clause (a) of sub-section (4) and if the default continues on the next succeeding working day, the penal interest may be increased as provided in clause (b) of sub-section (4) for the concerned days.

(6) (a) The penalty payable under sub-section (4) and sub-section (5) shall be paid within a period of fourteen days from the date on which a notice issued by the Reserve Bank demanding payment of the same is served on the banking company and in the event of failure of the banking company to pay the same within such period, the penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting banking company is situated, such direction to be made only upon an application made by the Reserve Bank in this behalf to the court; and

(b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the banking company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.

(7) When under the provisions of clause (b) of sub-section (4) penal interest at the increase rate of five per cent. above the bank rate has become payable by a banking company, if thereafter the amount required to be maintained on the next succeeding alternate Friday, or if such Friday is a public holiday, the next preceding working day, is still below the prescribed minimum, every director, manager or secretary of the banking company, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent alternate Friday or the preceding working day, as the case may be, on which the default continues.

(8) Notwithstanding anything contained in this section, if the Reserve Bank is satisfied, on an application in writing by the defaulting banking company, that the banking company had sufficient cause for its failure to comply with the provisions of clause (a) of sub-section (2A), the Reserve Bank may not demand the payment of the penal interest.

*Explanation.—*In this section, the expression "public holiday" means a day which is a public holiday under the Negotiable Instruments Act, 1881.'

1 of 1956.

27. In section 29 of the Banking Regulation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amend-
ment of
section
29.

"(3A) Notwithstanding anything to the contrary contained in sub-section (3) of section 210 of the Companies Act, 1956, the period to which the profit and loss account relates shall, in the case of a banking company, be the period ending with the last working day of the year immediately preceding the year in which the annual general meeting is held."

28. In section 34A of the Banking Regulation Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amend-
ment of
section
34A.

'(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'

29. In section 35 of the Banking Regulation Act,—

Amend-
ment of
section
35.

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

"(1A) (a) Notwithstanding anything to the contrary contained in any law for the time being in force and without prejudice to the provisions of sub-section (1), the Reserve Bank, at any time, may also cause a scrutiny to be made by any one or more of its officers, of the affairs of any banking company and its books and accounts; and

(b) a copy of the report of the scrutiny shall be furnished to the banking company if the banking company makes a request for the same or if any adverse action is contemplated against the banking company on the basis of the scrutiny.";

(ii) in sub-section (2), after the words, brackets and figure "any officer making an inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iii) in sub-section (3), after the words, brackets and figure "inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iv) in sub-section (4), after the words "on any inspection", the words "or scrutiny" shall be inserted.

30. In section 35B of the Banking Regulation Act,—

Amend-
ment of
section
35B.

(i) in sub-section (1), in clause (a), after the words "any provision relating to", the words "the maximum permissible number of directors or" shall be inserted;

(ii) in sub-section (2), for the words and figures "provisions of sections 310", the words and figures "provisions of sections 269, 310" shall be substituted;

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

"(2A) Nothing contained in section 198 of the Companies Act, 1956 shall apply to a banking company and the provisions of sub-section (1) of section 309 and of section 387 of that Act shall, insofar as they are applicable to a banking company, have effect as if no reference had been made in the said provisions to section 198 of that Act."

1 of 1956.

Amend-
ment of
section
36AB.

31. In section 36AB of the Banking Regulation Act, in sub-section (1), the proviso shall be omitted.

Amend-
ment of
section
36AD.

32. In section 36AD of the Banking Regulation Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank."

Amend-
ment of
section
42.

33. In section 42 of the Banking Regulation Act,—

(i) for the words and figures "sections 460, 464 and 465", the word and figures "section 460" shall be substituted; and

(ii) the words "or with the appointment of a committee of inspection" shall be omitted.

Amend-
ment of
section
45.

34. In section 45 of the Banking Regulation Act,—

(a) in sub-section (5), in clause (i),—

(i) in the first proviso, for the words "as are applicable", in the two places where they occur, the words "as are, at the time of such payment or grant, applicable" shall be substituted;

(ii) in the second proviso, for the words "the doubt or difference shall be referred", the words "the doubt or difference shall be referred, before the expiry of a period of three years from the date of the payment or grant mentioned in that clause," shall be substituted;

(b) in sub-section (8), the following shall be inserted at the end, namely:—

"including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those companies or the transferee bank";

(c) in sub-section (9), for the words "On and from such date as may be specified by the Central Government in this behalf", the words "On and from the date of the coming into operation of, or as the case may be, the date specified in this behalf in, the scheme" shall be substituted;

(d) in sub-section (15), for the words and figures "any other banking institution notified by the Central Government under section 51", the words "a subsidiary bank or a corresponding new bank" shall be substituted;

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

"Explanation.—References in this section to the terms and conditions of service as applicable to an employee shall not be construed as extending to the rank and status of such employee."

5 of 1898.
2 of 1973.

35. In sections 45A and 45J of the Banking Regulation 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 and in sub-section (5) of the said section 45J, the words "and all such trials shall be without the aid of a jury" shall be omitted.

36. In section 45S of the Banking Regulation Act, for the words "Chief Presidency Magistrate or the District Magistrate", wherever they occur, the words "Chief Metropolitan Magistrate or the Chief Judicial Magistrate" shall be substituted.

37. After section 45X of the Banking Regulation Act, the following Part shall be inserted, namely:—

"PART IIIB

PROVISIONS RELATING TO CERTAIN OPERATIONS OF BANKING COMPANIES

45Y. The Central Government may, after consultation with the Reserve Bank and by notification in the Official Gazette, make rules specifying the periods for which—

(a) a banking company shall preserve its books, accounts and other documents; and

(b) a banking company shall preserve and keep with itself different instruments paid by it.

45Z. (1) Where a banking company is required by its customer to return to him a paid instrument before the expiry of the period specified by rules made under section 45Y, the banking company shall not return the instrument except after making and keeping in its possession a true copy of all relevant parts of such instrument, such copy being made by a mechanical or other process which in itself ensures the accuracy of the copy.

(2) The banking company shall be entitled to recover from the customer the cost of making such copies of the instrument.

Explanation.—In this section, "customer" includes a Government department and a corporation incorporated by or under any law.

Amend-
ment of
sections
45A and
45J.

Amend-
ment of
section
45S.

Insertion
of new
Part
IIIB.

Power of
Central
Govern-
ment to
make
rules
for the
preser-
vation
of
records.

Return
of paid
instru-
ments to
custo-
mers.

Nomination for payment of depositors' money.

45ZA. (1) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(2) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minority of the nominee.

(4) Payment by a banking company in accordance with the provisions of this section shall constitute a full discharge to the banking company of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.

Notice of claims of other persons regarding deposits not receivable.

45ZB. No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a banking company, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

Nomination for return of articles kept in safe custody with banking company.

45ZC. (1) Where any person leaves any article in safe custody with a banking company, such person may nominate, in the prescribed manner, one person to whom, in the event of the death of the person leaving the article in safe custody, such article may be returned by the banking company.

(2) Where the nominee is a minor, it shall be lawful for the person making the nomination to appoint in the prescribed manner any person to receive the article deposited in the event of his death during the minority of the nominee.

(3) The banking company shall, before returning any articles under this section to the nominee or the person appointed under

sub-section (2), prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the said articles which shall be signed by such nominee or person and shall deliver a copy of the inventory so prepared to such nominee or person.

(4) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such article, where a nomination made in the prescribed manner purports to confer on any person the right to receive the article from the banking company, the nominee shall, on the death of the person leaving the article in safe custody, become entitled to the return of the article to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner:

Provided that nothing contained in this section shall affect the right or claim which any person may have against the person to whom the article is returned in pursuance of this sub-section.

45ZD. No notice of the claim of any person, other than the person or persons in whose name any article is held by a banking company in safe custody, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such article is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

45ZE. (1) Where an individual is the sole hirer of a locker from a banking company, whether such locker is located in the safe deposit vault of such banking company or elsewhere, such individual may nominate one person to whom, in the event of the death of such individual, the banking company may give access to the locker and liberty to remove the contents of the locker.

(2) Where any such locker is hired from a banking company by two or more individuals jointly, and, under the contract of hire, the locker is to be operated under the joint signatures of two or more of such hirers, such hirers may nominate one or more persons to whom, in the event of the death of such joint hirer or hirers, the banking company may give, jointly with the surviving joint hirer or joint hirers, as the case may be, access to the locker and liberty to remove the contents of such locker.

(3) Every nomination under sub-section (1) or sub-section (2) shall be made in the prescribed manner.

(4) The banking company shall, before permitting the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the contents of the locker which shall be signed by such nominee or jointly by such nominee and survivors and shall deliver

Notice of claims of other persons regarding articles not receivable.

Release of contents of safety lockers.

a copy of the inventory so prepared to such nominee or nominees and survivors.

(5) On the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, the liability of the banking company in relation to the contents of the locker shall stand discharged.

(6) No suit, prosecution or other legal proceeding shall lie against a banking company for any damage caused or likely to be caused, for allowing access to any locker, and liberty to remove the contents of such locker, in pursuance of the provisions of sub-section (1) or sub-section (2), as the case may be.

Notice of claims of other persons regarding safety lockers not receivable.

45ZF. No notice of the claim of any person, other than hirer or hirers of a locker, shall be receivable by a banking company nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to the locker or its contents is produced before the banking company, the banking company shall take due note of such decree, order, certificate or other authority.”

Amendment of section 46.

38. In section 46 of the Banking Regulation Act,—

(i) in sub-section (2), for the words “an officer making an inspection under that section”, the words “an officer making an inspection or scrutiny under that section” shall be substituted;

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

“(4) If any other provision of this Act is contravened or if any default is made in—

(i) complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, or

(ii) carrying out the terms of, or the obligations under, a scheme sanctioned under sub-section (7) of section 45,

by any person, such person shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day, during which the contravention or default continues.”

Amendment of section 47.

39. In section 47 of the Banking Regulation Act, for the words “no court inferior to that of a Presidency Magistrate or a Magistrate of the first class”, the words “no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto” shall be substituted.

Amendment
of section
51.

49. Section 51 of the Banking Regulation Act shall be re-numbered as sub-section (1) of that section, and—

(a) in sub-section (1) as so re-numbered—

(i) for the figures, words, brackets and letters "19 to 21, 23 to 28, 29 [excluding sub-section (3)], 31, 34, 35, 35A, 36 [excluding clause (d) of sub-section (1)], 46 to 48", the figures, words, letters and brackets "19 to 21A, 23 to 28, 29 [excluding sub-section (3)], 31, 34, 35, 35A, 36 [excluding clause (d) of sub-section (1)], 45Y to 45ZF, 46 to 48" shall be substituted;

(ii) for the words, figures and brackets "or any 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 any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other banking institution notified by the Central Government in this behalf", the words "or any corresponding new bank or a Regional Rural Bank or any subsidiary bank" shall be substituted;

(iii) in the proviso,—

(A) in clause (a), for the words "general manager", the words "managing director" shall be substituted;

(B) for clauses (b) and (c), the following clauses shall be substituted, namely:—

"(b) nothing contained in sub-clause (iii) of clause (b) of sub-section (1) of section 20 shall apply to any bank referred to in sub-section (1), insofar as the said sub-clause (iii) of clause (b) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a Government company) in which not less than forty per cent. of the paid-up capital is held (whether singly or taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and

(c) nothing contained in section 46 or in section 47A shall apply to,—

(i) an officer of the Central Government or the Reserve Bank, nominated or appointed as director of the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank or a banking company; or

(ii) an officer of the State Bank of India or a corresponding new bank or a Regional Rural Bank or a subsidiary bank nominated or appointed as director of any of the said banks (not being the bank of which he is an officer) or of a banking company.";

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) References to a banking company in any rule or direction relating to any provision of this Act referred to in sub-section (1) shall, except where such rule or direction provides otherwise, be construed as referring also to the State Bank of India, a corresponding new bank, a Regional Rural Bank and a subsidiary bank.”.

Amend-
ment of
section
52.

41. In section 52 of the Banking Regulation Act,—

(a) sub-section (3) shall be omitted;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) 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.”.

Amend-
ment of
section
56.

42. In section 56 of the Banking Regulation Act,—

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

“(ii) clauses (ff), (h) and (nb) shall be omitted;”;

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

‘(f) for section 7, the following section shall be substituted, namely:—

“7. (1) No co-operative society other than a co-operative bank shall use as part of its name or in connection with its business any of the words “bank”, “banker” or “banking”, and no co-operative society shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

(2) Nothing in this section shall apply to—

(a) a primary credit society, or

(b) a co-operative society formed for the protection of the mutual interest of co-operative banks or co-operative land mortgage banks, or

(c) any co-operative society, not being a primary credit society, formed by the employees of—

(i) a banking company or the State Bank of India or a corresponding new bank or a subsidiary

Use of
words
“bank”,
“banker”
or
“banking”.

bank of such banking company, State Bank of India or a corresponding new bank, or

(ii) a co-operative bank or a primary credit society or a co-operative land mortgage bank,

insofar as the word "bank", "banker" or "banking" appears as part of the name of the employer bank, or as the case may be, of the bank, whose subsidiary the employer bank is." ;

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

(f) in section 8, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply—

(a) to any such business as aforesaid which was in the course of being transacted on the commencement of clause (iii) of section 42 of the Banking Laws (Amendment) Act, 1983, so, however, that the said business shall be completed before the expiry of one year from such commencement; or

(b) to any business as is specified in pursuance of clause (o) of sub-section (1) of section 6;" ;

(iii) in section 9, for the second proviso, the following provisos shall be substituted, namely:—

"Provided further that in the case of a primary credit society which becomes a primary co-operative bank after the commencement of clause (iii) of section 42 of the Banking Laws (Amendment) Act, 1983, the period of seven years shall commence from the day it so becomes a primary co-operative bank:

Provided also that the Reserve Bank may, in any particular case, extend the aforesaid period of seven years by such period as it may consider necessary where it is satisfied that such extension would be in the interests of the depositors of the co-operative bank." ;

(iv) in clause (g), for the figures and letters "10B, 10C", the figures and letters "10B, 10BB, 10C" shall be substituted;

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

(j) for section 18, the following section shall be substituted, namely:—

"18. (1) Every co-operative bank, not being a State co-operative bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (hereinafter referred to as a "scheduled State Co-operative Bank"), shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve

Cash
reserve

Bank or the State co-operative bank of the State concerned or by way of net balance in current accounts, or, in the case of a primary co-operative bank, with the central co-operative bank of the district concerned, or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the fifteenth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day. 26 of 1881.

Explanation.—In this section and in section 24—

(a) “liabilities in India” shall not include—

(i) the paid-up capital or the reserves or any credit balance in the profit and loss account of the co-operative bank;

(ii) any advance taken from a State Government, the Reserve Bank, the Development Bank, the Exim Bank, the National Bank or from the National Co-operative Development Corporation established under section 3 of the National Co-operative Development Corporation Act, 1962 by the 26 of 1962. co-operative bank;

(iii) in the case of a State or central co-operative bank, also any deposit of money with it representing the reserve fund or any part thereof maintained with it by any other co-operative society within its area of operation, and in the case of a central co-operative bank, also an advance taken by it from the State co-operative bank of the State concerned;

(iv) in the case of a primary co-operative bank, also any advance taken by it from the State co-operative bank of the State concerned or the central co-operative bank of the district concerned;

(v) in the case of any co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance; and

(vi) in the case of any co-operative bank, the amount of any advance or other credit arrangement drawn and availed of against approved securities;

(b) “fortnight” shall mean the period from Saturday to the second following Friday, both days inclusive;

(c) “net balance in current accounts” shall, in relation to a co-operative bank, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that co-operative bank with the State Bank of India or a subsidiary bank or a corres-

ponding new bank, over the aggregate of the credit balances in current accounts held by the said banks with such co-operative bank;

(d) for the purpose of computation of liabilities, the aggregate of the liabilities of a co-operative bank to the State Bank of India, a subsidiary bank, a corresponding new bank, a Regional Rural Bank, a banking company or any other financial institution notified by the Central Government in this behalf shall be reduced by the aggregate of the liabilities of all such banks and institutions to the co-operative bank;

(e) any cash with a co-operative bank or any balance held by a co-operative bank with another bank, shall not, to the extent such cash or such balance represents the balance in, or investment of, Agricultural Credit Stabilisation Fund of such co-operative bank, be deemed to be cash maintained in India.

(2) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a co-operative bank, and, if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24, as liability in India of a co-operative bank, the decision of the Reserve Bank thereon shall be final.";

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

'(m) in section 20A, in sub-section (1),—

(i) the words and figures "Notwithstanding anything to the contrary contained in section 293 of the Companies Act, 1956," shall be omitted;

(ii) in clause (a), for the words "any of its directors", the words "any of its past or present directors" shall be substituted;'

(vii) in clause (o) relating to the modification of section 22,—

(A) in sub-clause (i), for sub-section (2) of section 22 aforesaid as substituted by that sub-clause, the following sub-section shall be substituted, namely:—

"(2) Every co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, shall, before the expiry of three months from such commencement, every co-operative bank which comes into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business shall, before the expiry of three months from its so coming into existence every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months

from the date on which it so becomes a primary co-operative bank and every co-operative society other than a primary credit society shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this section:

Provided that nothing in clause (b) of sub-section (1) shall be deemed to prohibit—

(i) a co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965; or

23 of 1965.

(ii) a co-operative bank which has come into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 or at any time thereafter; or

23 of 1965.

(iii) a primary credit society which becomes a primary co-operative bank after such commencement,

from carrying on banking business until it is granted a licence in pursuance of this section or is, by a notice in writing, notified by the Reserve Bank that the licence cannot be granted to it.”;

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

“(ii) sub-section (3A) shall be omitted;

(iii) in sub-section (4), in clause (iii), the words, brackets, figure and letter “and sub-section (3A)” shall be omitted;”;

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

“(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Any co-operative bank other than a primary co-operative bank requiring the permission of the Reserve Bank under this section shall forward its application to the Reserve Bank through the National Bank which shall give its comments on the merits of the application and sent it to the Reserve Bank:

Provided that the co-operative bank shall also send an advance copy of the application directly to the Reserve Bank.”;

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

“(q) in section 24,—

(i) in sub-section (1), the words “After the expiry of two years from the commencement of this Act,” shall be omitted;

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

“(2) In computing the amount for the purposes of sub-section (1),—

(a) any balances maintained in India by a co-operative bank in current account with the Reserve Bank or by way of net balance in current accounts, and in the case of a scheduled State co-operative bank, also the balance required under section 42 of the Reserve Bank of India Act, 1934, to be so maintained;

(b) any balances maintained by a central co-operative bank with the State co-operative bank of the State concerned, and

(c) any balances maintained by a primary co-operative bank with central co-operative bank of the district concerned or with the State co-operative bank of the State concerned,

shall be deemed to be cash maintained in India.

(2A) (a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, or of such further period not exceeding one year as the Reserve Bank, having regard to the interests of the co-operative bank concerned, may think fit in any particular case to allow,—

(i) a scheduled State co-operative bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and

(ii) every other co-operative bank, in addition to the cash reserve which it is required to maintain under section 18,

shall maintain in India, in cash, or in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time, an amount which shall not, at the close of business on any day, be less than twenty-five per cent. or such other percentage not exceeding forty per cent. as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight.

23 of 1965.

2 of 1934.

(b) In computing the amount for the purpose of clause (a), the following shall be deemed to be cash maintained in India, namely:—

(i) any balance maintained by a scheduled State co-operative bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934;

2 of 1964.

(ii) any cash or balances maintained in India by a co-operative bank, other than a scheduled State co-operative bank, with itself or with the State co-operative bank of the State concerned, or in current account with the Reserve Bank or by way of net balance in current accounts and, in the case of a primary co-operative bank, also any balances maintained with the central co-operative bank of the district concerned, in excess of the aggregate of the cash or balances required to be maintained under section 18;

(iii) any net balance in current accounts.

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

(a) approved securities, or a portion thereof, representing investment of monies of Agricultural Credit Stabilisation Fund of a co-operative bank shall not be deemed to be unencumbered approved securities;

(b) in case a co-operative bank has taken an advance against any balance maintained with the State co-operative bank of the State concerned or with the central co-operative bank of the district concerned, such balance to the extent to which it has been drawn against or availed of shall not be deemed to be cash maintained in India;

(c) for the purpose of clause (a), the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date, as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities;”

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

“Provided that every co-operative bank, other than a primary co-operative bank, shall also furnish within the said period, a copy of the said return to the National Bank.”;

(v) in sub-section (6), in clause (a), for the words “fourteen days”, the words “thirty days” shall be substituted;”

(x) after clause (q), the following clause shall be inserted, namely:—

'(qq) after section 24, the following section shall be inserted, namely:—

"24A. Without prejudice to the provisions of section 53, the Reserve Bank may, by notification in the Official Gazette, declare that, for such period and subject to such conditions as may be specified in such notification the whole or any part of the provisions of section 18 or section 24, as may be specified therein, shall not apply to any co-operative bank or class of co-operative banks, with reference to all or any of the offices of such co-operative bank or banks, or with reference to the whole or any part of the assets and liabilities of such co-operative bank or banks."';

Power to
exempt.

(xi) in clause (w) relating to the modification of section 35,—

(a) in sub-clause (i), for item (b), the following item shall be substituted, namely:—

'(b) the following proviso shall be inserted at the end, namely:—

"Provided that the Reserve Bank may, if it considers it necessary or expedient so to do, cause an inspection to be made of a primary co-operative bank under this sub-section by one or more officers of a State co-operative bank in the State in which such primary co-operative bank is registered."';

(b) sub-clauses (iii) and (iv) shall be re-numbered as sub-clauses (iv) and (v) respectively and before sub-clause (iv) as so re-numbered, the following sub-clause shall be inserted, namely:—

'(iii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Without prejudice to the provisions of sub-section (4), the Reserve Bank may, if it considers it necessary or expedient so to do supply a copy of the report on any inspection or scrutiny to the State co-operative bank and the Registrar of co-operative societies of the State in which the bank which has been inspected or whose affairs have been scrutinised is registered."';

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

'(z) in section 36, in sub-section (1),—

(a) clause (b) shall be omitted;

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

"(d) at any time, if it is satisfied that for the re-organisation or expansion of co-operative credit on sound

lines it is necessary so to do, by an order in writing and on such terms and conditions as may be specified therein,—

(i) depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of the co-operative bank or of any other body constituted by it and require the co-operative bank to give an opportunity to the officer so deputed to be heard at such meetings and to offer such advice on such matters as the officer may consider necessary or proper for the reorganisation and expansion of co-operative credit on sound lines; and also require such officer to send a report of such proceedings to the Reserve Bank;

(ii) appoint one or more of its officers to observe the manner in which the affairs of the co-operative bank or its offices or branches are being conducted and make a report thereon;" ;

(xiii) in clause (za) relating to the modification of section 36A, in sub-clause (ii), in sub-section (3) as inserted by that sub-clause, for the words, brackets, letters and figure "in clause (ccc) of section 5", the words, brackets, letters and figure "in clause (ccv) of section 5" shall be substituted;

(xiv) after clause (za), the following clause shall be inserted, namely:—

"(zaa) in section 36AD, sub-section (3) shall be omitted;" ;

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

'(zc) in section 46,—

(i) in sub-section (4), the word "or" occurring at the end of clause (i) and clause (ii) shall be omitted;

(ii) in clause (a) of the *Explanation*, after the words "includes a", the words "co-operative society" shall be inserted.'

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

Insertion
of new
section
35A.

Arrange-
ment
with the
State
Bank on
appoint-
ment of
direc-
tors to
prevail

43. In Chapter VI, after section 35 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act), the following section shall be inserted, namely:—

23 of 1955.

"35A. (1) Where any arrangement entered into by the State Bank with a company provides for the appointment by the State Bank of one or more directors of such company, such provisions 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

1 of 1956.

office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the State Bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

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

(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.”

44. In section 40 of the State Bank Act,—

(i) in sub-section (1), for the words “auditors’ report on the working of the State Bank”, the words “auditors’ report and a report by the Central Board on the working and activities of the State Bank” shall be substituted;

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

“(4) The Central Government shall cause the auditors’ report and the report by the Central Board on the working and activities of the State Bank to be laid, as soon as may be after they are received, 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.”

45. In section 42 of the State Bank Act, in sub-section (2), after the word “working”, the words “and activities” shall be inserted.

Amend-
ment of
section 42.

46. In section 43 of the State Bank Act, in sub-section (2), for the words “as may be”, the words “as may, by general or special order, be” shall be substituted.

Amend-
ment of
section 43.

47. In section 49 of the State Bank Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 49.

“(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.”.

Amend-
ment of
section 50.

48. In section 50 of the State Bank Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every regulation shall, as soon as may be after it is made under this Act by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

CHAPTER VI

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Insertion
of new
section
36A.

49. After section 36 of the State Bank of India (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act), the following section shall be inserted, namely:—

38 of 1959.

Subsi-
diary
bank to
act as
agent of
the Re-
serve
Bank.

“36A. (1) A subsidiary bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India, where it has a branch, for—

(a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(b) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(2) The terms and conditions on which any such agency business shall be carried on by the subsidiary bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(3) If, no agreement can be reached on any matter referred to in sub-section (2) or if a dispute arises between a subsidiary bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(4) A subsidiary bank may transact any business or perform any functions entrusted to it under sub-section (1), by itself or through any agent approved by the Reserve Bank.”,

50. After section 38 of the Subsidiary Banks Act, the following section shall be inserted, namely:—

Insertion
of new
section
38A.

1 of 1956.

"38A. (1) Where any arrangement entered into by a subsidiary bank with a company provides for the appointment by the subsidiary bank of one or more directors of such company, 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 directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the subsidiary bank in pursuance of the arrangement as aforesaid.

Arrange-
ment
with
subsidiary
banks on
appoint-
ment of
direc-
tors to
prevail.

(2) Any director appointed as aforesaid shall—

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

(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.”

51. In section 43 of the Subsidiary Banks Act,—

Amend-
ment of
section
43.

(i) in sub-section (1),—

(a) in the opening portion, for the words “and the Reserve Bank”, the words “, the Reserve Bank and the Central Government” shall be substituted;

(b) in clause (a), after the words “on the working”, the words “and activities” shall be inserted;

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

(3) The Central Government shall cause the auditor's report and the report by the Board of directors on the working and activities of the subsidiary bank to be laid, as soon as may be after they are received, 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.”.

Amend-
ment of
section
44.

52. In section 44 of the Subsidiary Banks Act,—

(a) in sub-section (1), in the proviso, for the words “the State Bank, or to the Reserve Bank”, the words “the State Bank, the Reserve Bank or the Central Government” shall be substituted;

(b) in sub-section (2), after the word “working”, the words “and activities” shall be inserted.

Amend-
ment of
section 53.

53. In section 53 of the Subsidiary Banks Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Where the State Bank nominates any of its officers as director of a subsidiary bank, such director shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as director or anything in relation thereto.”.

Amend-
ment of
section
62.

54. In section 62 of the Subsidiary Banks Act, 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.”.

Amend-
ment of
section
63.

55. In section 63 of the Subsidiary Banks Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every regulation shall, as soon as may be after it is made under this Act by the State Bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

CHAPTER VII

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE
CORPORATION ACT, 1961

47 of 1961. 56. In section 2 of the Deposit Insurance and Credit Guarantee Amendment of section 2.
Corporation Act, 1961 (hereafter in this Chapter referred to as the Deposit Insurance Corporation Act),—

10 of 1949.

(a) in clause (b), for the words and figures "a subsidiary bank and any other banking institution notified under section 51 of the Banking Regulation Act, 1949", the words "and a subsidiary bank" shall be substituted;

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

5 of 1970.

'(ee) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or, as the case may be, under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;'

40 of 1980.

(c) in clause (i),—

(i) after the words "banking company", at the first place where they occur, the words "or a corresponding new bank" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1971;

(ii) for sub-clause (i), the following sub-clauses shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969, namely:—

"(i) a banking company referred to in clause (a) or clause (b) of sub-section (1) of section 13, or

(ia) a corresponding new bank to which the provisions of clause (a) of sub-section (1) of section 13 apply, or";

(d) in clause (k), the words and figures "and includes any banking institution notified under section 51 of the said Act after such commencement" shall be omitted.

57. In section 4 of the Deposit Insurance Corporation Act, in sub-section (1), for the words "fifteen crores of rupees", the words "fifty crores of rupees" shall be substituted.

Amend-
ment of
section 4.

58. In section 6 of the Deposit Insurance Corporation Act,—

Amend-
ment of
section 6.

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

"(2) (i) A director nominated under clause (b) or clause (c) of sub-section (1) shall hold office during the pleasure of the authority nominating him; and

- (ii) A director nominated under clause (d) or clause (e) of sub-section (1), shall hold office for such period not exceeding four years as may be specified by the Central Government and thereafter until his successor assumes office.”;
- (b) in sub-section (3), in the opening portion, after the word, brackets and letter “clause (d)”, the words, brackets and letter “or clause (e)” shall be inserted;
- (c) after sub-section (4), the following sub-section shall be inserted, namely:—
- “(5) If a director nominated under clause (e) of sub-section (1)—
- (a) becomes subject to any of the disqualifications mentioned in clauses (a) to (d) of sub-section (3); or
- (b) is absent without leave of the Board for more than three consecutive meetings thereof,
- his seat shall thereupon become vacant.”.

**Amend-
ment of
section 11.** 59. In section 11 of the Deposit Insurance Corporation Act, the words and figures “, or, as the case may be, after it is notified under section 51 of the said Act” shall be omitted.

**Amend-
ment of
section 13.** 60. In section 13 of the Deposit Insurance Corporation Act, in sub-sections (2) and (3), the brackets and letter “(b),” shall be omitted.

**Amend-
ment of
section
13A.** 61. In section 13A of the Deposit Insurance Corporation Act, in clause (b) of sub-section (2), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) every co-operative bank which has come into existence after the commencement of the Deposit Insurance Corporation (Amendment) Act, 1968, as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business, at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, or at any time thereafter, within three months of its having made an application for a licence under the said section.”.

56 of 1968.

**Amend-
ment of
section 16.** 62. In section 16 of the Deposit Insurance Corporation Act, in sub-section (1), in the proviso, for the words and figures “of section 13”, the words, brackets and figures “of sub-section (1) of section 13” shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969.

23 of 1968.

**Amend-
ment of
section 32.** 63. In section 32 of the Deposit Insurance Corporation Act, in sub-section (2), for the words “for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government”, the words “as soon as may be after they are received 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” shall be substituted.

64. In section 50 of the Deposit Insurance Corporation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every regulation shall, as soon as may be after it is made under this Act by the Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

Amend-
ment of
section 50.

CHAPTER VIII

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

5 of 1970. **65.** In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act),—

Amend-
ment of
section 3.

(i) in sub-section (5), for the words “one or more forms of business”, the words “one or more of the other forms of business” shall be substituted;

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7)(i) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, for—

(a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(b) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(ii) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(iii) If no agreement can be reached on any matter referred to in clause (ii), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(iv) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (i), by itself or through any agent approved by the Reserve Bank.”

Amend-
ment of
section 9.

66. In section 9 of the Bank Nationalisation Act,—

(i) sub-section (5) shall be re-numbered as sub-section (6) and before sub-section (6) as so re-numbered, the following sub-section and Explanation shall be inserted, namely:—

'(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (c) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(a) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(b) the properties and assets of the corresponding new bank, or as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank, or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, “banking institution” means a banking company and includes the State Bank of India or a subsidiary bank.’

(ii) in sub-section (6) as so re-numbered, for the words “which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following”, the words “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” shall be substituted.

Amend-
ment of
section 10.

67. In section 10 of the Bank Nationalisation Act,—

(i) after sub-section (4), the following Explanations shall be inserted, namely:—

“Explanation I.—For the purposes of this Act—

(a) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(b) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account, does not disclose any

10 of 1949.

matters which are by the provisions of the Banking Regulation Act, 1949, read with the relevant provisions of this Act or any other Act, not required to be disclosed.

Explanation II.—For the purposes of this Act the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(i) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949, read with the relevant provisions of this Act, or any other Act, not required to disclose; and

(ii) the provisions referred to in clause (i) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.”;

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

“(7A) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.”;

(iii) in sub-section (8), for the words “for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government”, the words “as soon as may be after they are received 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” shall be substituted;

(iv) after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.”.

68. After section 16 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Insertion
of new
section
16A.

“16A. (1) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, 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

Arrange-
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directors
to prevail.

any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

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

(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.”

**Amend-
ment of
section 19.** 69. In section 19 of the Bank Nationalisation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”

CHAPTER IX

AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

**Amend-
ment of
section 30**

70. Section 30 of the Regional Rural Banks Act, 1976 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:—

21 of 1976

“(2) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors, forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”

CHAPTER X

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

40 of 1980.

71. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],—

Amend-
ment of
section 3.

(i) in sub-section (5), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) (i) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, for—

(a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(b) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(ii) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(iii) If no agreement can be reached on any matter referred to in clause (ii), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(iv) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (i), by itself or through any agent approved by the Reserve Bank."

72. In section 9 of the Bank (Second) Nationalisation Act, sub-section (5) shall be re-numbered as sub-section (6) and before sub-section (6) as so re-numbered, the following sub-section and Explanation shall be inserted, namely:—

Amend-
ment of
section 9.

"(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (c) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(a) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(b) the properties and assets of the corresponding new bank or, as the case may be, of the banking institution shall, by

virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, “banking institution” means a banking company and includes the State Bank of India or a subsidiary bank.’

Amend-
ment of
section
10.

73. In section 10 of the Bank (Second) Nationalisation Act,—

(i) after sub-section (4), the following Explanations shall be inserted, namely:—

“Explanation I.—For the purposes of this Act,—

(a) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(b) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account, does not disclose any matters which are by the provisions of the Banking Regulation Act, 1949, read with the relevant provisions of this Act or any other Act, not required to be disclosed.

10 of 1949

Explanation II.—For the purposes of this Act, the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(i) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949, read with the relevant provisions of this Act, or any other Act, not required to disclose; and

(ii) the provisions referred to in clause (i) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor’s report.”;

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

“(7A) Every corresponding new bank shall furnish to the Central Government, the annual balance-sheet, the profit and loss account, and the auditor’s report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.”;

10 of 1949

(iii) in sub-section (8), for the words “for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government”, the words “as soon as may be after they are received 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” shall be substituted;

(iv) after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.”.

74. After section 16 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Insertion
of new
section
16A.

“16A. (1) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, 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 directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

Arrange-
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new bank
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appoint-
ment of
directors
to prevail.

(2) Any director appointed as aforesaid shall—

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

(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.”.

75. In section 19 of the Bank (Second) Nationalisation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 19.

“(4) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

Rep. by Act.....12.....of 1980, S. 28 Sch. I

THE COMPTROLLER AND AUDITOR-GENERAL'S
(DUTIES, POWERS AND CONDITIONS OF SERVICE)
AMENDMENT ACT, 1984

No. 2 OF 1984

[16th March, 1984.]

An Act further to amend the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971.

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

Short title.

1. This Act may be called the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984.

Amend-
ment of
section 6

2. In the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (hereinafter referred to as the principal Act), in section 6, after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) Notwithstanding anything contained in the foregoing provisions of this section, a person referred to in sub-section (1) who demits office [whether in any manner specified in sub-section (8) or by resignation] as the Comptroller and Auditor-General after the commencement of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984, shall, on such demission, be entitled to—

(a) the pension to which he would have been entitled under the rules of the Service to which he belonged by reckoning his service as the Comptroller and Auditor-General as continuing approved service counting for pension in such Service; and

(b) a special pension of seven hundred rupees per annum in respect of each completed year of service as the Comptroller and Auditor-General:

Provided that the aggregate of the amounts payable to him under clause (a) and clause (b) of this sub-section shall in no case exceed a sum of twenty thousand and four hundred rupees per annum.

REPEALED

[Act 2 of 1984]

*Comptroller and Auditor-General's (Duties, Powers and
Conditions of Service) Amendment*

51

(6B) Notwithstanding anything contained in the foregoing provisions of this section, a person referred to in sub-section (3) who demits office [whether in any manner specified in sub-section (8) or by resignation] as the Comptroller and Auditor-General after the commencement of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984, shall, on such demission, be entitled to—

(a) the pension payable to him in respect of any previous service under Government; and

(b) a special pension of seven hundred rupees per annum in respect of each completed year of service as the Comptroller and Auditor-General:

Provided that the aggregate of the amounts payable to him under clause (a) and clause (b) of this sub-section shall in no case exceed a sum of twenty thousand and four hundred rupees per annum, and such sum shall include the aggregate of all other pensions, if any, payable to him and the commuted portion, if any, of his pension.”.

3. Section 14 of the principal Act shall be renumbered as sub-section (1) thereof and—

Amend-
ment of
section
14.

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

(i) for the words “rupees five lakhs”, the words “rupees twenty-five lakhs” shall be substituted;

(ii) for the words “this section”, the words “this sub-section” shall be substituted;

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

“(2) Notwithstanding anything contained in sub-section (1), the Comptroller and Auditor-General may, with the previous approval of the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, audit all receipts and expenditure of any body or authority where the grant or loan to such body or authority from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly, as the case may be, in a financial year is not less than rupees one crore.

(3) Where the receipts and expenditure of any body or authority are, by virtue of the fulfilment of the conditions specified in sub-section (1) or sub-section (2), audited by the Comptroller and Auditor-General in a financial year, he shall continue to audit the receipts and expenditure of that body or authority for a further period of two years notwithstanding that the conditions specified in sub-section (1) or sub-section (2) are not fulfilled during any of the two subsequent years.”.

REPEALED

52 Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984 [Act 2 of 1984]

Insertion
of new
section
19A.

Laying of
reports in
relation to
accounts of
Govern-
ment
com-
panies and
corpora-
tions.

Section 4. After section 19 of the principal Act, the following section shall be inserted, namely:

19A. (1) The reports of the Comptroller and Auditor-General, in relation to the accounts of a Government company or a corporation referred to in section 19, shall be submitted to the Government or Governments concerned.

(2) The Central Government shall cause every report received by it under sub-section (1) to be laid, as soon as may be after it is received, before each House of Parliament.

(3) The State Government shall cause every report received by it under sub-section (1) to be laid, as soon as may be after it is received, before the Legislature of the State.

Explanation.—For the purposes of this section, "Government" or "State Government", in relation to a Union territory having a Legislative Assembly, means the Administrator of the Union territory.

[REPEALED]

**THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY
ACT, 1984**

No. 9 of 1984

[16th March, 1984.]

**An Act to provide for prevention of damage to public property and
for matters connected therewith.**

Be it enacted by Parliament in the Thirty-fifth Year of the Republic
of India as follows:

1. (1) This Act may be called the Prevention of Damage to Public
Property Act, 1984.

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

(3) It shall be deemed to have come into force on the 28th day of
January, 1984.

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

(a) "mischief" shall have the same meaning as in section 425 of
the Indian Penal Code;

(b) "public property" means any property, whether immovable
or movable, (including any machinery) which is owned by, or in the
possession of, or under the control of—

(i) the Central Government; or

(ii) any State Government; or

(iii) any local authority; or

(iv) any corporation established by, or under, a Central, Pro-

pvincial or State Act; or

(v) any company, as defined in section 617 of the Companies
Act, 1956; or

(vi) any institution, concern or undertaking which the
Central Government may, by notification in the Official Gazette,
specify in this behalf:

Provided that the Central Government shall not specify any
institution, concern or undertaking under this sub-clause unless
such institution, concern or undertaking is financed wholly or
substantially by funds provided directly or indirectly by the

Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State Governments.

Mischief causing damage to public property.

3. (1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being—

(a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;

(b) any oil installations;

(c) any sewage works;

(d) any mine or factory;

(e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith,

shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine:

Provided that the court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months.

Mischief causing damage to public property by fire or explosive substance.

4. Whoever commits an offence under sub-section (1) or sub-section (2) of section 3 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to ten years and with fine:

Provided that the court may, for special reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than one year.

Special provisions regarding bail.

5. No person accused or convicted of an offence punishable under section 3 or section 4 shall, if in custody, be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release.

Saving.

6. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force, and nothing contained in this Act shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might apart from this Act, be instituted or taken against him.

Repeal and saving.

7. (1) The Prevention of Damage to Public Property Ordinance, 1984, is hereby repealed.

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

THE INDUSTRIES (DEVELOPMENT AND REGULATION)
AMENDMENT ACT, 1984

No. 4 OF 1984

[21st March, 1984.]

An Act further to amend the Industries (Development and Regulation) Act, 1951.

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

1. (1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1984.

(2) It shall be deemed to have come into force on the 12th day of January, 1984.

~~1 XXX 2 In section 3 of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act),~~

~~(i) clauses (aa) and (ab) shall be re-lettered as clauses (ab) and (ac) respectively, and before clause (ab) as so re-lettered, the following clause shall be inserted, namely:~~

~~'(aa) "ancillary industrial undertaking" means an industrial undertaking which, in accordance with the proviso to sub-section (1) of section 11B and the requirements specified under that sub-section, is entitled to be regarded as an ancillary industrial undertaking for the purposes of this Act;'~~

~~(ii) clause (j) shall be re-lettered as clause (k), and before clause (k) as so re-lettered, the following clause shall be inserted, namely:~~

~~'(j) "small scale industrial undertaking" means an industrial undertaking which, in accordance with the requirements specified under sub-section (1) of section 11B, is entitled to be regarded as a small scale industrial undertaking for the purposes of this Act.'~~

3. After section 11A of the principal Act, the following section shall be inserted, namely:—

"11B. (1) The Central Government may, with a view to ascertaining which ancillary and small scale industrial undertakings need

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

Short title and Commencement.

Amendment of section 3 of Act 65 of 1951.

Insertion of new section 11B.

Power of Central Government

to specify the requirements which shall be complied with by small scale industrial undertakings.

supportive measures, exemptions or other favourable treatment under this Act to enable them to maintain their viability and strength and so as to be effective in

(a) promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment, and

(b) securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good,

specify, having regard to the factors mentioned in sub-section (2), by notified order, the requirements which shall be complied with by an industrial undertaking to enable it to be regarded, for the purposes of this Act, as an ancillary, or a small scale, industrial undertaking and different requirements may be so specified for different purposes or with respect to industrial undertakings engaged in the manufacture or production of different articles.

Provided that no industrial undertaking shall be regarded as an ancillary industrial undertaking unless it is, or is proposed to be, engaged in—

(i) the manufacture of parts, components, sub-assemblies, toolings or intermediates; or

(ii) rendering of services, or supplying or rendering, not more than fifty per cent. of its production or its total services, as the case may be, to other units for production of other articles.

(2) The factors referred to in sub-section (1) are the following, namely:

(a) the investment by the industrial undertaking in—

(i) plant and machinery, or

(ii) land, buildings, plant and machinery, excluding labour.

(b) the nature of ownership of the industrial undertaking;

(c) the smallness of the number of workers employed in the industrial undertaking;

(d) the nature, cost and quality of the product of the industrial undertaking;

(e) foreign exchange, if any, required for the import of any plant or machinery by the industrial undertaking; and

(f) such other relevant factors as may be prescribed.

(3) A copy of every notified order proposed to be made under sub-section (1) shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the proposed notified order or both Houses agree in making any modification in the proposed notified order, the notified order shall not be made, or, as the case may be, shall be made only in such modified form as may be agreed upon by both the Houses.

(4) Notwithstanding anything contained in sub-section (1), an industrial undertaking which, according to the law for the time being in force, fell, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984, under the definition of an ancillary, or small scale, industrial undertaking, shall, after such commencement, continue to be regarded as an ancillary, or small scale, industrial undertaking for the purposes of this Act until the definition aforesaid is altered or superseded by any notified order made under sub-section (1).

(5) In section 24 of the principal Act, in sub-section (1) in clause (i), for the words, brackets, figures and letter "sub-section (2)" of section 29B, the words, brackets, figures and letters "sub-sections (2A), (2D), (2F) and (2G)" of section 29B shall be substituted, whenever inserted.

5. In section 29B of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

(2A) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Central Government may, if it is satisfied, after considering the recommendations made to it by the Advisory Committee constituted under sub-section (2B), that it is necessary so to do for the development and expansion of ancillary, or small scale, industrial undertakings, by notified order, direct that any article or class of articles specified in the First Schedule shall, on and from such date as may be specified in the notified order (hereafter in this section referred to as the "date of reservation"), be reserved for exclusive production by the ancillary, or small scale, industrial undertakings (hereafter in this section referred to as "reserved article").

(2B) The Central Government shall, with a view to determining the nature of any article or class of articles that may be reserved for production by the ancillary, or small scale, industrial undertakings, constitute an Advisory Committee consisting of such persons as have, in the opinion of that Government, the necessary expertise to give advice on the matter.

(2C) The Advisory Committee shall, after considering the following matters, communicate its recommendations to the Central Government, namely:—

(a) the nature of any article or class of articles which may be produced economically by the ancillary, or small scale, industrial undertakings;

(b) the level of employment likely to be generated by the production of such article or class of articles by the ancillary, or small scale, industrial undertakings;

(c) the possibility of encouraging and diffusing entrepreneurship in industry;

(d) the prevention of concentration of economic power to the common detriment; and

(e) such other matters as the Advisory Committee may think fit.

Amend-
ment of
section
24.

Amend-
ment of
section
29B.

(2D) The production of any reserved article or class of reserved articles by any industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, on the date of reservation, is engaged in, or has taken effective steps for, the production of any reserved article or class of reserved articles, shall, after the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or, as the case may be, the date of reservation, whichever is later, be subject to such conditions as the Central Government may, by notified order, specify.

(2E) While specifying any condition under sub-section (2D), the Central Government may take into consideration the level of production of any reserved article or class of reserved articles achieved, immediately before the date of reservation, by the industrial undertaking referred to in sub-section (2D), and such other factors as may be relevant.

(2F) Every person or authority, not being the Central Government, who, or which, is registered under section 10 or to whom, or to which, a licence has been issued or permission has been granted under section 11 for the production of any article or class of articles which has, or have, been subsequently reserved for the ancillary, or small scale, industrial undertakings, shall produce, such registration certificate, licence or permission, as the case may be, within such period as the Central Government may, by notified order, specify in this behalf, and the Central Government may enter therein all or any of the conditions specified by it under sub-section (2D), including the productive capacity of the industrial undertakings and other prescribed particulars.

(2G) The owner of every industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or the date of reservation, whichever is later,—

(a) was engaged in the production of any article or class of articles, which has, or have, been reserved for the ancillary, on small scale, industrial undertakings, or

(b) had before such commencement or before the date of such reservation, as the case may be, taken effective steps for commencing the production of such reserved article or class of reserved articles,

without being registered under section 10 or in respect of which a licence or permission has not been issued under section 11, shall refrain from the production of such reserved article or class of reserved articles, on and from the date of expiry of three months from such commencement or from the date of such reservation, whichever is later.

(2H) Every notified order made under sub-section (2A) 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

Vali-
dation.

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 notified order or both Houses agree that the notified order should not be made, the notified 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 notified order.'

6. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other law, agreement or other instrument for the time being in force, every notification made or purporting to have been made by the Central Government under the principal Act, on or after the 19th day of February, 1970, reserving any article or class of articles for production by any ancillary, or small scale, industrial undertaking or any class of ancillary, or small scale, industrial undertakings shall, for all purposes, be, and shall be deemed always to have been, as valid and effective as if the amendments made to the principal Act by this Act had been in force at all material times and such notification had been made in full compliance with the provisions made by such amendments and accordingly any reservation made or purporting to have been made by such notification shall, in accordance with the tenor thereof, have, and be deemed always to have had, effect on and from the date of such reservation and shall, until it is altered or superseded by any fresh notification under the principal Act as amended by this Act, continue to have effect.

Explanation.—For the removal of doubts it is hereby provided that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

1 of 1984.

7. (1) The Industries (Development and Regulation) Amendment Ordinance, 1984, is hereby repealed.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

3 Law—8.

{ Repealed by Act 19 of 1985, s. 2 & Sch I.

THE ASIATIC SOCIETY ACT, 1984

No. 5 OF 1984

[23rd March, 1984.]

An Act to declare the institution known as the Asiatic Society having at present its registered office in Calcutta to be an institution of national importance and to provide for certain matters connected therewith.

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

Short title and commencement.

Declaration of Asiatic Society as an institution of national importance.

Definitions.

1. (1) This Act may be called the Asiatic Society Act, 1984.

(2) It shall come into force on¹ such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Whereas the late William Jones founded on the 15th day of January, 1784, an institution in Calcutta which is now known as the Asiatic Society and the objects of which are such as to make the institution one of national importance, it is hereby declared that the said Asiatic Society is an institution of national importance.

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

(a) "memorandum" means the memorandum of association of the Society;

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

(c) "regulations" includes any rule or regulation (by whatever name called) which the Society is competent to make in the exercise of the powers conferred on it under the West Bengal Societies Registration Act, 1961, but shall not include any bye-laws or standing orders made under the regulations for the conduct of its day-to-day administration;

(d) "Society" means the Asiatic Society being a society within the meaning of the West Bengal Societies Registration Act, 1961, and having its registered office in Calcutta.

¹ 25th June 1984, *Vide* Notification No. G.S.R.470 (E), dated 25-6-1984, Gazette of India, 1984 Extraordinary, Part II, Section (i).

West Bengal Act XXVI, 1961.

West Bengal Act XXVI, 1961.

4. For the purpose of enabling the Society to discharge efficiently its functions, including in particular those relating to research, literary, library, scientific and museological activities, collection of manuscripts, coins and art objects, and the publication of periodicals, books and other literature, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Society in each financial year such sums of money as that Government considers necessary by way of grants, loans or otherwise.

Grants,
loans,
etc. by
Central
Govern-
ment to
Society.

5. (1) The Society shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be approved by the Comptroller and Auditor-General of India.

Audit of
accounts
of
Society.

(2) The accounts of the Society shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Society to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Society shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Society.

(4) The accounts of the Society as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf together with the audit report thereof shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

6. The Society shall furnish to the Central Government, at such time each year as may be directed, its annual report giving full account of its activities, policies and programmes during the previous year and that Government shall cause the same to be laid before each House of Parliament.

Annual
report.

7. The Society shall not, except with the previous approval of the Central Government,—

(a) alter, extend or abridge any of the purposes for which it has been established or for which it is being used immediately before the commencement of this Act, or amalgamate itself either wholly or partially with any other institution or society; or

(b) alter or amend in any manner the memorandum or regulations; or

(c) sell or otherwise dispose of any property acquired by the Society with money specifically provided for such acquisition by the Central Government:

Provided that no such approval shall be necessary in the case of any such movable property or class of movable property as may

Prior
approval
of Central
Govern-
ment
necessary
for certain
action by
Society.

be specified by the Central Government in this behalf by general or special order; or

(d) be dissolved.

Planning Board.

8. (1) For the purpose of advising it with respect to the planning and implementation of the developmental programmes of the Society and other matters concerning the Society, the Central Government may, by notification in the Official Gazette, establish a board to be called the Planning Board (Asiatic Society).

(2) The Board shall consist of a Chairman and such other members as may be appointed by the Central Government.

(3) Subject to any rules which the Central Government may make in this behalf, the Board shall have the power to regulate its own procedure.

(4) The term of office of, the procedure to be followed in the discharge of their functions by, the manner of filling casual vacancies among, the allowances, if any, payable to, and other matters concerning, the members of the Board shall be such as may be prescribed.

Committees.

9. (1) The Central Government may, by notification in the Official Gazette, constitute as many committees, as and when it considers it necessary, consisting of such number of persons as it thinks fit to appoint thereto and assign to each such committee all or any of the following duties, namely:—

(a) the preparation and submission to the Central Government, as far as possible before the commencement of each financial year, of statements showing programmes of work agreed to be undertaken by the Society during that year for which the Central Government may provide funds as well as general financial estimates in respect of such work;

(b) the settlement on broad lines of the programmes of such work.

(2) A committee constituted under sub-section (1) shall, in discharging its duties with respect to any matter under this section, have due regard to the advice, if any, tendered in respect of such matter under section 8 by the Board to the Central Government.

(3) Where the Society does not agree to undertake any work suggested by any committee referred to in sub-section (1), it shall give to the Central Government its reasons for not so agreeing.

(4) The procedure to be followed by a committee constituted under sub-section (1) in the discharge of its functions, the allowances, if any, payable to the members of such committee and other matters relating to such committee shall be such as may be prescribed.

Review of work done inspection of assets, etc.

10. (1) The Central Government may, by notification in the Official Gazette, constitute a Committee consisting of such number of persons as it thinks fit to appoint thereto for the purpose of—

(a) reviewing the work done by the Society and the progress made by it;

- (b) inspecting its buildings, equipment and other assets;
- (c) evaluating the work done by the Society; and
- (d) advising Government generally on any matter which in the opinion of the Central Government is of importance in connection with the work of the Society;

and the Committee shall submit its report thereon in such manner as the Central Government may direct.

(2) The procedure to be followed by, the allowances, if any, payable to, the members of the Committee and other matters concerning the Committee shall be such as may be prescribed.

(3) The Committee shall, subject to the provisions of sub-section (4) and of any rules which the Central Government may make in this behalf, have power to regulate its own procedure.

(4) Notice shall be given in every case to the Society of the intention to cause a review, inspection or evaluation to be made, and the Society shall be entitled to appoint a representative who shall have the right to be present and be heard at such review, inspection or evaluation.

(5) The Central Government may address the President of the Society with reference to the result of such review, inspection or evaluation as disclosed in any report of the Committee referred to in sub-section (1), and the President shall communicate to the Central Government the action, if any, taken thereon.

(6) When the Central Government has, in pursuance of sub-section (5), addressed the President of the Society in connection with any matter, and the President does not within a reasonable time take action to the satisfaction of the Central Government in respect thereof, the Central Government may, after considering any explanations furnished or representations made on behalf of the Society, issue such directions as it considers necessary in respect of any of the matters dealt with in the report.

11. The Society shall be bound to afford all necessary facilities to the Board constituted under section 8 and to every committee constituted under section 9 or section 10 for the purpose of enabling them to carry out their duties.

Society
to
afford
facilities
to Com-
mittees.

12. (1) The Central Government may, if it is satisfied that it is necessary so to do in the public interest issue, for reasons to be recorded and communicated to the Society, such directions as it thinks to the Society, and such directions may include directions requiring the Society—

- (a) to amend the memorandum or to make or amend any regulation within such period as may be specified in the directions;
- (b) to give priorities to the work undertaken or to be undertaken by the Society in such manner as the Central Government may think fit to specify in this behalf.

Power
to issue
directions
to
Society.

(2) Any directions issued under this section shall have effect, notwithstanding anything contained in any law for the time being in force or in the memorandum or regulations of the Society.

Power of
Central
Govern-
ment to
assume
functions
of
control.

13. (1) If, in the opinion of the Central Government,—

(i) the Society without just or reasonable cause has made default in giving effect to any direction issued under sub-section (6) of section 10 or section 12; or

(ii) the Council of the Society has exceeded or abused the powers in relation to the Society or any part thereof;

the Central Government may, by written order, direct the Society within a period to be specified in the order to show cause to the satisfaction of the Central Government against the making of any appointment referred to in sub-section (2).

(2) If, within the period fixed by any order issued under sub-section (1), cause is not shown to the satisfaction of the Central Government, the Central Government may, by order published in the Official Gazette and stating the reasons therefor, appoint one or more persons to take over the management of the Society or of any of the activities of the Society for such period not exceeding two years as may be specified in the order.

(3) During the period specified in the order issued under sub-section (2),—

(a) where the order provides for any person or persons taking over the management of the Society—

(i) all persons holding office as Members of the Council, including the President, shall be deemed to have vacated their offices as such;

(ii) the person or persons appointed under sub-section (2) to take over the management of the Society shall exercise all the powers and perform all the duties of the President or Council of the Society, whether at a meeting or otherwise, in respect of the Society;

(b) where the order provides for any person or persons taking over the management of any activities of the Society, the person or persons so appointed shall alone be entitled to exercise all the powers and perform all the duties of the President or Council in relation to those activities.

Act to
have over-
riding
effect.

14. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the memorandum or regulations or the West Bengal Societies Registration Act, 1961 or any other law for the time being in force.

Power to
make
rules.

15. (1) The Central Government may, by notification in the Official Gazette, make rules to carry 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:—

(i) matters with respect to the procedure to be followed by the Board under sub-section (3) of section 8;

West
Bengal Act
XXVI Act
1961.

(ii) the term of office of, the procedure to be followed in the discharge of their functions by, the manner of filling casual vacancies among, the allowances, if any, payable to, and other matters concerning, the members of the Board under sub-section (4) of section 8;

(iii) the procedure to be followed by a committee in the discharge of its functions, the allowances, if any, payable to the members of the committee and other matters relating to the committee under sub-section (4) of section 9;

(iv) the procedure to be followed by, the allowances, if any, payable to, the members of the Committee and other matters concerning the Committee under sub-section (2) of section 10;

(v) any other matter which is required to be or in respect of which rules may be made under this Act.

(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 APPROPRIATION (VOTE ON ACCOUNT) ACT, 1984

No. 6 OF 1984

[23rd March, 1984.]

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 1984-85.

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

Short title. 1. This Act may be called the Appropriation (Vote on Account) Act, 1984.

**With-
drawal of
Rs. 31070,
18,90,000
from and
out of the
Consoli-
dated
Fund of
India
for the
finan-
cial year
1984-85.** 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 thirty-one thousand seventy crores, eighteen lakhs and ninety thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85.

**Appro-
priation.** 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.

**Construc-
tion of
refer-
ences to
Minis-
tries and
Depart-
ments in
the
Schedule.** 4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 23rd day of February, 1984 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.

OF 1984]

Appropriation (Vote on Account)

THE SCHEDULE

(See sections 2, 3 and 4)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Department of Agriculture and Co-operation . . . Revenue	72,07,000	2,000	72,09,000
2	Agriculture . . . Revenue	18,57,29,000	..	18,57,29,000
	Capital	301,47,97,000	33,90,40,000	335,38,37,000
3	Fisheries . . . Revenue	3,75,90,000	..	3,75,90,000
	Capital	1,66,98,000	35,00,000	2,01,98,000
4	Animal Husbandry and Dairy Development . . . Revenue	25,34,05,000	3,000	25,34,08,000
	Capital	7,73,52,000	23,33,000	7,96,85,000
5	Forest . . . Revenue	8,55,29,000	..	8,55,29,000
	Capital	13,29,000	3,30,67,000	3,43,96,000
6	Co-operation . . . Revenue	1,32,17,000	..	1,32,17,000
	Capital	52,56,04,000	1,34,96,000	53,91,00,000
7	Department of Agricultural Research and Education . . . Revenue	12,93,000	..	12,93,000
8	Payments to Indian Council of Agricultural Research . . . Revenue	22,40,07,000	..	22,40,07,000
9	Ministry of Chemicals and Fertilizers . . . Revenue	165,13,38,000	..	165,13,38,000
	Capital	101,52,84,000	16,67,000	101,69,51,000
10	Ministry of Commerce . . . Revenue	44,45,000	..	44,45,000
11	Foreign Trade and Export Production . . . Revenue	110,45,05,000	..	110,45,05,000
	Capital	86,77,50,000	..	86,77,50,000
12	Textiles, Handloom and Handicrafts . . . Revenue	58,52,02,000	..	58,52,02,000
	Capital	31,84,22,000	1,95,97,000	33,80,19,000
13	Ministry of Communications . . . Revenue	94,43,000	..	94,43,000
	Capital	7,49,17,000	..	7,49,17,000

No. of Vote	Services and purposes	Sums not exceeding			Total
		Voted by Parliament	Charged on the Consolidated Fund		
		Rs.	Rs.	Rs.	
14	Overseas Communications Service . . . Revenue	6,09,14,000	..	6,09,14,000	
	Capital	2,30,50,000	..	2,30,50,000	
15	Posts and Telegraphs—Working Expenses . . . Revenue	263,54,84,000	1,33,50,000	264,88,34,000	
16	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Other Expenditure . . . Revenue	53,07,90,000	..	53,07,90,000	
17	Capital Outlay on Posts and Telegraphs Capital	137,71,88,000	17,000	137,72,05,000	
18	Ministry of Defence . . . Revenue	69,14,31,000	4,000	69,14,35,000	
	Capital	26,18,50,000	42,87,000	26,61,37,000	
19	Defence Services—Army Revenue	648,68,25,000	8,92,000	648,77,17,000	
20	Defence Services—Navy Revenue	83,94,82,000	35,000	83,95,17,000	
21	Defence Services—Air Force . . . Revenue	237,80,84,000	83,000	237,81,67,000	
22	Defence Services—Pensions . . . Revenue	93,97,33,000	5,83,50,000	99,80,83,000	
23	Capital Outlay on Defence Services . . . Capital	119,92,83,000	85,00,000	120,77,83,000	
24	Department of Education . . . Revenue	67,50,000	..	67,50,000	
25	Education . . . Revenue	69,57,82,000	..	69,57,82,000	
	Capital	5,40,000	66,67,000	72,07,000	
26	Department of Culture Revenue	3,36,57,000	..	3,36,57,000	
27	Archaeology . . . Revenue	1,90,83,000	..	1,90,83,000	
28	Department of Petroleum . . . Revenue	43,97,000	..	43,97,000	
	Capital	63,71,53,000	..	63,71,53,000	
29	Department of Power Revenue	34,59,90,000	..	34,59,90,000	
	Capital	215,18,04,000	2,03,67,000	217,21,71,000	
30	Department of Coal . . . Revenue	24,05,26,000	..	24,05,26,000	
	Capital	200,92,36,000	..	200,92,36,000	
31	Department of Non-Conventional Energy Sources . . . Revenue	13,97,18,000	..	13,97,18,000	
	Capital	1,000	..	1,000	

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
32	Ministry of External Affairs . . . Revenue	33,98,39,000	4,000	33,98,43,000
	Capital	10,38,17,000	..	10,38,17,000
33	Ministry of Finance . . . Revenue	1,74,25,000	..	1,74,25,000
	Capital	1,000	..	1,000
34	Customs . . . Revenue	10,67,93,000	7,000	10,68,00,000
	Capital	3,67,33,000	..	3,67,33,000
35	Union Excise Duties . . . Revenue	14,36,44,000	51,000	14,36,95,000
36	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax . . . Revenue	15,93,82,000	22,000	15,94,04,000
37	Stamps . . . Revenue	6,54,91,000	..	6,54,91,000
	Capital	34,33,000	..	34,33,000
38	Audit . . . Revenue	17,96,21,000	33,95,000	18,30,16,000
39	Currency, Coinage and Mint . . . Revenue	13,17,27,000	..	13,17,27,000
	Capital	6,74,05,000	..	6,74,05,000
40	Pensions . . . Revenue	21,21,32,000	3,46,46,000	24,67,78,000
41	Opium and Alkaloid Factories . . . Revenue	24,61,84,000	1,000	24,61,85,000
	Capital	19,40,000	..	19,40,000
42	Transfers to State Governments . . . Revenue	594,53,47,000	831,96,00,000	1426,49,47,000
	Capital	..	1481,76,82,000	1481,76,82,000
CHARGED.—				
	Interest Payments . . . Revenue	..	952,03,13,000	952,03,13,000
43	Other Expenditure of the Ministry of Finance . . . Revenue	153,16,15,000	3,000	153,16,18,000
	Capital	295,92,16,000	..	295,92,16,000
44	Loans to Government Servants, etc. . . Capital	17,16,41,000	..	17,16,41,000
CHARGED.—				
	Repayment of Debt . . . Capital	..	21141,77,25,000	21141,77,25,000
45	Department of Food . . . Revenue	173,51,32,000	8,000	173,51,40,000
	Capital	8,50,32,000	3,25,000	8,53,77,000
46	Department of Civil Supplies . . . Revenue	95,60,000	..	95,60,000
	Capital	1,40,59,000	69,00,000	2,09,59,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
47	Ministry of Health and Family Welfare . . Revenue	29,31,000	..	29,31,000
48	Medical and Public Health , . . Revenue	42,44,95,000	10,000	42,45,05,000
	Capital	14,48,91,000	36,000	14,49,27,000
49	Family Welfare . . Revenue	78,19,51,000	..	78,19,51,000
	Capital	8,33,000	..	8,33,000
50	Ministry of Home Affairs . . Revenue	93,99,000	..	93,99,000
51	Cabinet . . . Revenue	1,19,53,000	..	1,19,53,000
52	Department of Personnel and Administrative Reforms . . . Revenue	2,19,28,000	1,000	2,19,29,000
	Capital	..	50,00,000	50,00,000
53	Police . . . Revenue	76,88,71,000	22,000	76,88,93,000
	Capital	14,28,16,000	62,67,000	4,90,83,000
54	Other Administrative and General Services . Revenue	29,30,48,000	..	29,30,48,000
	Capital	5,89,07,000	..	5,89,07,000
55	Other Expenditure of the Ministry of Home Affairs . . . Revenue	63,96,43,000	37,93,39,000	101,90,82,000
	Capital	31,92,89,000	63,89,000	32,56,78,000
56	Delhi . . . Revenue	56,70,76,000	22,45,000	56,93,21,000
	Capital	42,02,82,000	1,33,33,000	43,36,15,000
57	Chandigarh . . . Revenue	9,65,99,000	26,14,000	9,92,13,000
	Capital	4,12,18,000	12,50,000	4,24,68,000
58	Andaman and Nicobar Islands . . . Revenue	8,96,96,000	2,000	8,96,98,000
	Capital	5,24,09,000	..	5,24,09,000
59	Dadra and Nagar Haveli . . Revenue	96,06,000	..	96,06,000
	Capital	98,19,000	..	98,19,000
60	Lakshadweep . . . Revenue	2,35,50,000	..	2,35,50,000
	Capital	53,93,000	..	53,93,000
61	Ministry of Industry . . Revenue	93,14,000	..	93,14,000
62	Industries . . . Revenue	34,87,83,000	..	34,87,83,000
	Capital	74,00,01,000	..	74,00,01,000

for 1984]

Appropriation (Vote on Account)

71

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
63	Village and Small Industries . . .	Revenue	24,57,53,000	3,25,00,000
		Capital	27,83,87,000	1,17,83,000
64	Ministry of Information and Broadcasting . . .	Revenue	23,52,000	..
65	Information and Publicity . . .	Revenue	5,89,54,000	..
		Capital	21,83,000	..
66	Broadcasting . . .	Revenue	23,20,07,000	17,000
		Capital	19,88,70,000	17,000
67	Ministry of Irrigation . . .	Revenue	23,74,18,000	16,000
		Capital	5,60,36,000	7,90,67,000
68	Department of Labour . . .	Revenue	26,67,000	..
69	Labour and Employment . . .	Revenue	16,23,72,000	4,000
		Capital	5,34,000	..
70	Department of Rehabilitation . . .	Revenue	3,46,02,000	10,000
		Capital	1,10,32,000	1,40,67,000
71	Ministry of Law, Justice and Company Affairs . . .	Revenue	12,47,33,000	..
		Capital	17,000	..
72	Administration of Justice . . .	Revenue	20,91,000	29,65,000
73	Ministry of Planning . . .	Revenue	1,09,000	..
74	Statistics . . .	Revenue	4,09,31,000	..
75	Planning Commission . . .	Revenue	1,19,33,000	..
76	Ministry of Rural Development . . .	Revenue	156,39,76,000	2,000
		Capital	2,96,000	..
77	Ministry of Shipping and Transport . . .	Revenue	89,52,000	..
78	Roads . . .	Revenue	34,28,44,000	42,000
		Capital	38,86,99,000	4,07,08,000
79	Ports, Lighthouses and Shipping . . .	Revenue	15,71,12,000	1,000
		Capital	29,67,30,000	16,67,000
80	Road and Inland Water Transport . . .	Revenue	2,66,76,000	..
		Capital	25,83,97,000	11,00,000
				25,94,97,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
81	Ministry of Social Welfare . . . Revenue	Rs. 16,49,68,000	Rs. ..	Rs. 16,49,68,000
	Capital	22,18,000	..	22,18,000
82	Department of Steel . . . Revenue	65,34,000	..	65,34,000
	Capital	159,12,67,000	50,08,000	159,62,75,000
83	Department of Mines . . . Revenue	18,64,27,000	83,000	18,65,10,000
	Capital	93,28,33,000	..	93,28,33,000
84	Ministry of Tourism and Civil Aviation . . . Revenue	21,28,000	..	21,28,000
85	Meteorology . . . Revenue	4,37,61,000	..	4,37,61,000
	Capital	1,07,00,000	..	1,07,00,000
86	Aviation . . . Revenue	7,68,35,000	3,000	7,68,38,000
	Capital	14,37,67,000	..	14,37,67,000
87	Tourism . . . Revenue	1,97,46,000	..	1,97,46,000
	Capital	1,93,51,000	..	1,93,51,000
88	Ministry of Works and Housing . . . Revenue	32,60,000	..	32,60,000
89	Public Works . . . Revenue	19,05,50,000	..	19,05,50,000
	Capital	10,54,02,000	1,67,000	10,55,69,000
90	Water Supply and Sewerage . . . Revenue	41,16,00,000	..	41,16,00,000
91	Housing and Urban Development . . . Revenue	5,19,50,000	26,11,000	5,45,61,000
	Capital	21,09,35,000	3,15,08,000	24,24,43,000
92	Stationery and Printing . . . Revenue	10,29,91,000	1,000	10,29,92,000
93	Department of Atomic Energy . . . Revenue	18,59,000	..	18,59,000
94	Atomic Energy Research, Development and Industrial Projects . . . Revenue	26,95,02,000	..	26,95,02,000
	Capital	60,54,91,000	..	60,54,91,000
95	Nuclear Schemes Power . . . Revenue	31,12,48,000	..	31,12,48,000
	Capital	23,33,33,000	..	23,33,33,000
96	Department of Electronics . . . Revenue	5,37,00,000	..	5,37,00,000
	Capital	3,86,33,000	..	3,86,33,000
97	Department of Environment . . . Revenue	4,33,45,000	..	4,33,45,000
	Capital	1,33,000	..	1,33,000

No. of Vote	Services and purposes	Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
98	Department of Ocean Development . . Revenue	Rs.	Rs.	Rs.	
		3,62,66,000	..	3,62,66,000	
99	Department of Science and Technology . . Revenue	Capital	55,00,000	55,00,000	
		Revenue	8,53,41,000	8,53,41,000	
100	Survey of India . . Revenue	Capital	46,17,000	46,17,000	
		Revenue	5,41,65,000	5,41,65,000	
101	Grants to Council of Scientific and Industrial Research . . Revenue	Capital	1,67,000	1,67,000	
		Revenue	18,83,33,000	18,83,33,000	
102	Department of Space . . Revenue	Capital	15,08,59,000	15,08,96,000	
		Revenue	21,94,36,000	21,94,36,000	
103	Department of Sports . . Revenue	Capital	1,32,000	1,32,000	
		Revenue	4,33,00,000	4,33,00,000	
104	Department of Supply . . Revenue	Capital	
		Revenue	1,40,000	1,40,000	
105	Supplies and Disposals . . Revenue	Capital	2,29,67,000	2,32,17,000	
		Revenue	2,50,000	2,50,000	
106	Lok Sabha . . Revenue	Capital	1,74,78,000	1,75,61,000	
		Revenue	83,000	83,000	
107	Rajya Sabha . . Revenue	Capital	1,62,75,000	1,63,02,000	
		Revenue	27,000	27,000	
108	Department of Parliamentary Affairs . . Revenue	Capital	1,642,000	1,642,000	
		Revenue	
CHARGED.—					
<i>Staff, House-hold and Allowances of the President . . Revenue</i>		..	20,85,000	20,85,000	
109	Secretariat of the Vice-President . . Revenue	Capital	1,62,000	1,62,000	
		Revenue	
CHARGED.—					
<i>Union Public Service Commission . . Revenue</i>		..	1,03,51,000	1,03,51,000	
TOTAL		6540,32,14,000	24529,86,76,000	31070,18,90,000	

THE APPROPRIATION ACT, 1984

No. 7 OF 1984

[23rd March, 1984.]

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 1983-84.

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

Short title.

Issue of
Rs. 28690,
23,32,000
out
of the
Con-
solida-
ted Fund
of India
for the
year
1983-84.

Approp-
riation.

1. This Act may be called the Appropriation Act, 1984.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of twenty-eight thousand six hundred and ninety crores, twenty-three lakhs and thirty-two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1983-84, in respect of the services specified in column 2 of the Schedule.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	Fisherics Capital	1,01,59,000	..	1,01,59,000
6	Co-operation Capital	25,00,00,000	80,00,000	25,80,00,000
10	Ministry of Commerce . . Revenue	12,87,000	..	12,87,000
11	Foreign Trade and Export Production . . Revenue	2,000	..	2,000
		Capital	198,65,88,000	198,65,88,000
12	Textiles, Handloom and Handicrafts . . Revenue	17,84,39,000	..	17,84,39,000
		Capital	20,19,73,000	20,19,73,000
15	Posts and Telegraphs - Working Expenses . . Revenue	13,00,00,000	7,00,00,000	20,00,00,000
17	Capital Outlay on Posts and Telegraphs . . Capital	50,00,00,000	..	50,00,00,000
18	Ministry of Defence . . Revenue	76,75,87,000	..	76,75,87,000
19	Defence Services—Army . . Revenue	275,25,30,000	22,50,000	275,47,80,000
20	Defence Services—Navy . . Revenue	47,40,40,000	..	47,40,40,000
21	Defence Services—Air Force . . Revenue	35,58,01,000	1,99,000	35,60,00,000
22	Defence Services—Pensions . . Revenue	16,77,45,000	50,00,00,000	66,77,45,000
23	Capital Outlay on Defence Services . . Capital	..	3,75,50,000	3,75,50,000
24	Department of Education . . Revenue	60,15,000	..	60,15,000
25	Education . . Revenue	8,88,77,000	..	8,88,77,000
		Capital	5,00,000	5,00,000
26	Department of Culture . . Revenue	1,93,66,000	..	1,93,66,000
32	Ministry of External Affairs . . Revenue	18,27,10,000	..	18,27,10,000
		Capital	2,67,32,000	2,67,32,000
33	Ministry of Finance . . Revenue	9,65,22,000	..	9,65,22,000
		Capital	14,26,000	14,26,000

No. of Vote	Services and purpose	Sums not exceeding			Total
		Voted by Parliament	Charged on the Consolidated Fund	Rs.	
34	Customs . . . Revenue	85,60,000	..	85,60,000	
35	Union Excise Duties . . Revenue	7,31,18,000	..	7,31,18,000	
36	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax . . Revenue	11,31,40,000	..	11,31,40,000	
38	Audit . . . Revenue	12,53,80,000	17,61,000	12,71,41,000	
39	Currency, Coinage and Mint . . . Revenue	1,55,41,000	29,03,000	1,84,44,000	
		Capital	4,70,04,000	4,14,000	4,74,18,000
40	Pensions . . . Revenue	14,52,84,000	..	14,52,84,000	
41	Opium and Alkaloid Factories . . Revenue	1,21,70,000	..	1,21,70,000	
42	Transfers to State Governments . . Revenue	11,69,40,000	114,79,77,000	126,49,17,000	
		Capital	..	1040,26,60,000	1040,26,60,000
	CHARGED - Interest Payments . . Revenue	..	150,00,00,000	150,00,00,000	
43	Other Expenditure of the Ministry of Finance . . Capital	187,11,48,000	..	187,11,48,000	
44	Loans to Government Servants, etc. . . Capital	10,00,00,000	..	10,00,00,000	
	CHARGED - Repayment of Debt . . Capital	..	29942,76,16,000	25942,76,16,000	
45	Department of Food . . Revenue	1,000	10,000	11,000	
		Capital	..	1590,000	15,90,000
47	Ministry of Health and Family Welfare . . Revenue	4,87,000	..	4,87,000	
48	Medical and Public Health . . Revenue	7,71,57,000	..	7,71,57,000	
		Capital	5,38,05,000	..	5,38,05,000
49	Family Welfare . . Revenue	19,77,99,000	..	19,77,99,000	
50	Ministry of Home Affairs . . Revenue	16,66,000	..	16,66,000	
52	Department of Personnel and Administrative Reforms . . Revenue	1,46,83,000	..	1,46,83,000	
53	Police . . Revenue	48,90,81,000	2,32,000	48,93,13,000	
55	Other Expenditure of the Ministry of Home Affairs . . Capital	2,08,29,000	..	2,08,29,000	
		Revenue	57,94,38,000	2,90,00,000	59,94,38,000
		Capital	3,31,44,000	..	3,31,44,000

No. of Vote	Services and purposes	Sums not exceeding			Tot.1
		Voted by Parliament	Charged on the Consolidated Fund		
		Rs.	Rs.	Rs.	
56	Delhi Revenue	19,67,01,000	13,13,000	19,80,14,000	
	Capital	1,000	12,95,000	12,96,000	
57	Chandigarh Revenue	3,65,90,000	25,05,000	3,90,95,000	
58	Andaman and Nicobar Islands Revenue	4,95,64,000	..	4,95,64,000	
59	Dadra and Nagar Haveli Revenue	38,24,000	..	38,24,000	
	Capital	11,65,000	..	11,65,000	
60	Laksh dweep Capital	53,89,000	..	53,89,000	
61	Ministry of Industry Revenue	31,58,000	..	31,58,000	
62	Industries Capital	7,42,76,000	..	7,42,76,000	
64	Ministry of Information and Broadcasting Revenue	20,11,000	..	20,11,000	
65	Information and Publicity Revenue	58,77,000	8,000	58,85,000	
66	Broadcasting Revenue	8,29,39,000	..	8,29,39,000	
	Capital	1,68,05,000	..	1,68,05,000	
67	Ministry of Irrigation Revenue	7,88,20,000	..	7,88,20,000	
	Capital	..	7,28,00,000	7,28,00,000	
68	Department of Labour Revenue	19,68,000	..	19,68,000	
69	Labour and Employment Revenue	3,44,52,000	1,60,000	3,46,12,000	
71	Ministry of Law, Justice and Company Affairs Revenue	11,00,000	..	11,00,000	
72	Administration of Justice Revenue	..	29,83,600	29,83,000	
77	Ministry of Shipping and Transport Revenue	34,72,000	..	34,72,000	
78	Roads Revenue	9,49,43,000	..	9,49,43,000	
	Capital	14,43,82,000	5,00,25,000	19,44,07,000	
79	Ports, Lighthouses and Shipping Revenue	3,38,55,000	..	3,38,55,000	
	Capital	2,000	..	2,000	
80	Road and Inland Water Transport Revenue	2,000	..	2,000	
	Capital	10,10,01,000	..	10,10,01,000	
82	Department of Steel Revenue	4,13,000	..	4,13,000	

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
83	Department of Mines . . . Revenue	3,29,38,000	..	3,29,38,000
88	Ministry of Works and Housing Revenue	8,90,000	..	8,90,000
91	Housing and Urban Develop- ment Revenue		24,14,000	24,14,000
	Capital	1,000	..	1,000
92	Stationery and Printing . . . Revenue		2,000	2,000
94	Atomic Energy Research, Deve- lopment and Industrial Projects . . . Capital	22,34,00,000	..	22,34,00,000
95	Nuclear Power Schemes . . . Revenue	7,34,00,000	..	7,34,00,000
96	Department of Electronics . . . Revenue	70,00,000	..	70,00,000
	Capital	70,00,000	..	70,00,000
102	Department of Space . . . Capital	..	1,81,000	1,81,000
103	Department of Sports . . . Revenue	62,30,000	..	62,30,000
	Capital	87,08,000	..	87,08,000
104	Department of Supply . . . Revenue	4,27,000	..	4,27,000
105	Supplies and Disposals . . . Revenue	85,00,000	..	85,00,000
107	Rajya Sabha Revenue	32,79,000	..	32,79,000
108	Department of Parliamentary Affairs . . . Revenue	1,73,000	..	1,73,000
CHARGED - Union Public Service Commission . . . Revenue		..	61,54,000	61,54,000
TOTAL		1363,03,30,000	27327,20,02,00	28690,23,32,000

THE APPROPRIATION (No. 2) ACT, 1984

No. 8 of 1984

[23rd March, 1984.]

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, 1982, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 2) Act, 1984.
Short title.
2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of three hundred and seventy-four crores, five lakhs, ninety-nine thousand, three hundred and fifty-five 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, 1982, in excess of the amounts granted for those services and for that year.
Issue of
Rs. 374,05,
99,355 out
of the Con-
solidated
Fund
of India
to meet
certain
excess ex-
penditure
for the
year
ended
on the
31st
March,
1982.
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, 1982.
Appropria-
tion.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Voted portion	Excess	
			Charged portion	Total
1	Foreign Trade and Export Production . . . Capital	168,93,45,998	..	168,93,45,998
15	Overseas Communications Service . . . Revenue	1,87,23,223	..	1,87,23,223
18	Capital Outlay on Posts and Telegraphs . . . Capital	51,63,71,150	..	51,63,71,150
20	Defence Services—Army . . . Revenue	88,79,78,556	..	88,79,78,556
21	Defence Services—Navy . . . Revenue	5,47,51,761	..	5,47,51,761
24	Capital Outlay on Defence Services . . . Capital	21,32,33,010	..	21,32,33,010
32	Ministry of Finance . . . Revenue	9,74,609	58,088	10,32,697
53	Delhi . . . Revenue	5,98,54,527	..	5,98,54,527
		Capital	16,69,75,744	16,69,75,744
55	Andaman and Nicobars Islands Revenue	2,85,68,419	..	2,85,68,419
56	Dadra and Nagar Haveli . . . Revenue	16,97,547	..	16,97,547
91	Public Works . . . Revenue	10,12,46,039	..	10,12,46,039
103	Department of Space . . . Revenue	52,355	..	52,355
		Capital	7,98,160	7,98,160
104	Lok Sabha . . . Revenue	..	70,169	70,169
	TOTAL	373,96,72,938	9,26,417	374,05,99,355

THE APPROPRIATION (RAILWAYS) ACT, 1984

No. 9 of 1984

[23rd March, 1984.]

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 1984-85 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Act, 1984. 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 nine thousand seven hundred and eleven crores, twelve lakhs and fifteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services relating to Railways specified in column 2 of the Schedule. Issue of Rs. 9711, 12,15,000 out of the Consolidated Fund of India for the financial year 1984-85.
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. Appropria-

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	4,66,14,000	..	4,66,14,000
2	Miscellaneous Expenditure (General)	32,03,15,000	..	32,03,15,000
3	General Superintendence and Services	230,57,39,000	3,15,000	230,60,54,000
4	Repairs and Maintenance of Per- manent Way and Works	467,09,45,000	3,80,000	467,13,25,000
5	Repairs and Maintenance of Motive Power	381,96,80,000	1,99,000	381,98,79,000
6	Repairs and Maintenance of Car- riages and Wagons	555,41,28,000	3,35,000	555,44,63,000
7	Repairs and Maintenance of Plant and Equipment	246,16,39,000	2,70,000	246,19,09,000
8	Operating Expenses—Rolling Stock and Equipment	428,20,75,000	4,54,000	428,25,29,000
9	Operating Expenses—Traffic	471,31,85,000	4,45,000	471,36,30,000
10	Operating Expenses—Fuel	939,59,98,000	1,50,000	939,61,48,000
11	Staff Welfare and Amenities	164,14,60,000	1,97,000	164,16,57,000
12	Miscellaneous Working Expenses	233,99,22,000	7,08,10,000	241,07,32,000
13	Provident Fund, Pension and other Retirement Benefits	233,62,28,000	30,00,08,000	263,62,36,000
14	Appropriation to Funds	1084,63,40,000	..	1084,63,40,000
15	Dividend to General Revenues, Repayment of loan taken from General Revenues and Amortiza- tion of Over-Capitalization	438,93,34,000	..	438,93,34,000
16	Assets—Acquisition, Construction and Replacement			
	Revenue	14,99,50,000	50,000	15,00,00,000
	Other Expenditure	3744,91,00,000	1,49,50,000	3746,40,50,000
	TOTAL	9672,26,52,000	38,85,63,000	9711,12,15,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1984

No. 10 OF 1984

[23rd March, 1984.]

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 1983-84 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 2 Act, Short title. 1984.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred sixty-six crores, thirteen lakhs and seventeen thousand rupees towards defraining the several charges which will come in course of payment during the financial year 1983-84 in respect of the services relating to Railways specified in column 2 of the Schedule.
Issue of Rs. 266,13, 17,000 out of the Consolidated Fund of India for the financial year 1983-84.
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)

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
3	General Superintendence and Services . . .	13,77,01,000	..	13,77,01,000
4	Repairs and Maintenance of Permanent Way and Works . . .	31,41,02,000	..	31,41,02,000
5	Repairs and Maintenance of Motive Power . . .	11,49,52,000	..	11,49,52,000
6	Repairs and Maintenance of Carriages and Wagons . . .	11,55,78,000	..	11,55,78,000
7	Repairs and Maintenance of Plant and Equipment . . .	12,52,19,000	..	12,52,19,000
8	Operating Expenses—Rolling Stock and Equipment . . .	23,85,77,000	3,62,000	23,89,39,000
9	Operating Expenses—Traffic . . .	33,66,16,000	..	33,66,16,000
10	Operating Expenses—Fuel . . .	37,91,45,000	..	37,91,45,000
11	Staff Welfare and Amenities . . .	6,82,80,000	..	6,82,80,000
12	Miscellaneous Working Expenses . . .	19,66,86,000	25,61,000	19,92,47,000
13	Provident Fund, Pension and other Retirement Benefits . . .	33,16,33,000	29,99,05,000	63,15,38,000
TOTAL		235,84,89,000	30,28,28,000	266,13,17,000

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1984

No. 11 OF 1984

[23rd March, 1984.]

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, 1982 in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1984.

Short title.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of eighty-eight crores, sixty-one lakhs, fifty-three thousand, eight hundred and eighty-three rupees shall be deemed to have been authorised to be paid and applied to meet the amounts 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, 1982, in excess of the amounts granted for those services and for that year.

Issue of
Rs.
88,61,53,
883
out of
the Con-
solidated
Fund of
India to
meet
certain
expen-
diture
for the
year
ended on
the 31st
March,
1982.
Appro-
priation.

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, 1982.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums aggregating to		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4	Repairs and Maintenance of Permanent Way and Works . . .	1,08,70,480	..	1,08,70,480
6	Repairs and Maintenance of Carriages and Wagons . . .	12,56,47,481	..	12,56,47,481
10	Operating Expenses—Fuel . . .	11,43,21,457	..	11,43,21,457
11	Staff Welfare and Amenities	4,408	4,408
16	Assets—Acquisition, Construction and Replacement . . .	63,53,10,057	..	63,53,10,057
	Other Expenditure . . .			
	TOTAL	88,61,49,475	4,408	88,61,53,883

THE PONDICHERRY APPROPRIATION (VOTE
ON ACCOUNT) ACT, 1984

No. 12 OF 1984

[26th March, 1984.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of a part of the financial year 1984-85.

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

1. This Act may be called the Pondicherry Appropriation (Vote on Account) Act, 1984.

Short title.

2. From and out of the Consolidated Fund of the Union territory of Pondicherry there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of thirty-eight crores, fifty-six lakhs and two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85.

Withdrawal of Rs. 38,56,02,000 from and out of the Consolidated Fund of the Union territory of Pondicherry for the financial year 1984-85.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund of the Union territory of Pondicherry 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 No. of Vote/ Approp- riation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
1	Legislative Assembly Revenue	10,35,000	31,000	10,66,000
2	Administrator . . . Revenue	10,000	6,29,000	6,39,000
3	Council of Ministers Revenue	7,02,000	..	7,02,000
4	Administration of Justice . . . Revenue	17,65,000	..	17,65,000
5	Elections . . . Revenue	3,19,000	..	3,19,000
6	Revenue and Food . . Revenue	95,76,000	50,000	146,26,000
	Capital	11,000	..	11,000
7	Sales Tax . . . Revenue	8,90,000	..	8,90,000
8	Transport . . . Revenue	11,31,000	..	11,31,000
9	Secretariat . . . Revenue	32,32,000	..	32,32,000
10	District Administra- tion . . . Revenue	1,59,43,000	..	1,59,43,000
	Capital	11,25,000	..	11,25,000
11	Treasury and Accounts Administration . . Revenue	20,13,000	..	20,13,000
12	Police . . . Revenue	1,06,67,000	..	1,06,67,000
13	Jails . . . Revenue	4,38,000	..	4,38,000
14	Stationery and Printing Revenue	25,86,000	..	25,86,000
15	Retirement Benefits . Revenue	53,49,000	..	53,49,000
16	Public Works . . Revenue	3,38,00,000	10,000	3,38,10,000
	Capital	2,87,96,000	..	2,87,96,000
17	Education . . . Revenue	5,68,30,000	..	5,68,30,000
	Capital	20,000	..	20,000
18	Medical . . . Revenue	2,74,92,000	..	2,74,92,000
19	Information and Publicity . . . Revenue	24,04,000	..	24,04,000
20	Labour and Employ- ment . . . Revenue	29,34,000	..	29,34,000

1 No. of Vote/ Appri- pri- ation	2 Services an d purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
21	Social Welfare . . Revenue	1,72,82,000	..	1,72,82,000
22	Co-operation . . Revenue	53,14,000	..	53,14,000
	Capital	66,04,000	..	66,04,000
23	Statistics . . Revenue	6,01,000	..	6,01,000
24	Agriculture . . Revenue	1,20,99,000	..	1,20,99,000
	Capital	1,34,000	..	1,34,000
25	Animal Husbandry . . Revenue	35,88,000	..	35,88,000
26	Fisheries . . Revenue	40,88,000	..	40,88,000
	Capital	26,87,000	..	26,87,000
27	Community Develop- ment . . Revenue	13,45,000	..	13,45,000
	Capital	6,00,000	..	6,00,000
28	Industries . . Revenue	56,79,000	..	56,79,000
	Capital	30,00,000	..	30,00,000
29	Electricity . . Revenue	3,54,38,000	..	3,54,38,000
	Capital	3,52,01,000	..	3,52,01,000
30	Ports and Pilotage . . Revenue	4,72,000	..	4,72,000
	Capital	12,50,000	..	12,50,000
	Public Debt . . Revenue	..	1,75,17,000	1,75,17,000
	Capital	..	1,63,71,000	1,63,71,000
31	Loans to Govern- ment Servants . . Capital	65,44,000	..	65,44,000
	TOTAL	35,09,94,000	3,46,08,000	38,56,02,000

THE PONDICHERRY APPROPRIATION ACT, 1984

No. 13 OF 1984

[26th March, 1984.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1983-84.

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

Short title.

Issue of Rs. 10,45,92,000 from and out of the Consolidated Fund of the Union territory of Pondicherry for the financial year 1983-84.

Appropriation.

1. This Act may be called the Pondicherry Appropriation Act, 1984.
2. From and out of the Consolidated Fund of the Union territory of Pondicherry 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 ten crores, forty-five lakhs and ninety-two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1983-84 in respect of the services specified in column 2 of the Schedule.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the Union territory of Pondicherry 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 Num- ber of Vote/ Appr- opria- tion	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
1	Legislative Assembly . Revenue	1,59,000	..	1,59,000
2	Administrator . Revenue	..	84,000	84,000
4	Administration of Justice . Revenue	4,51,000	..	4,51,000
5	Elections . Revenue	2,56,000	..	2,56,000
6	Revenue and Food . Revenue	59,08,000	..	59,08,000
	Capital	9,000	..	9,000
7	Sales Tax . Revenue	2,34,000	..	2,34,000
8	Transport . Revenue	2,23,000	..	2,23,000
9	Secretariat . Revenue	7,60,000	..	7,60,000
10	District Administration Revenue	1,10,27,000	..	1,10,27,000
11	Treasury and Accounts Administration Revenue	4,92,000	..	4,92,000
12	Police . Revenue	41,64,000	..	41,64,000
13	Jails . Revenue	94,000	..	94,000
14	Stationery and Printing Revenue	2,36,000	..	2,36,000
15	Retirement Benefits Revenue	23,08,000	..	23,08,000
16	Public Works . Revenue	..	51,000	51,000
	Capital	51,07,000	..	51,07,000
17	Education . Revenue	1,14,21,000	..	1,14,21,000
	Capital	5,000	..	5,000
18	Medical . Revenue	82,63,000	..	82,63,000
19	Information and Publicity . Revenue	1,28,000	..	1,28,000
20	Labour and Employment . Revenue	5,41,000	..	5,41,000
21	Social Welfare . Revenue	32,84,000	..	32,84,000
22	Co-operation . Revenue	14,34,000	..	14,34,000
	Capital.	80,97,000	..	80,97,000

Number of Vote/ Appr- opria- tion	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
23	Statistics . . . Revenue	2,10,000	..	2,10,000
24	Agriculture . . . Revenue	40,35,000	8,000	40,43,000
	Capital	9,000	..	9,000
25	Animal Husbandry . . Revenue	8,24,000	..	8,24,000
26	Fisheries . . . Revenue	10,39,000	..	10,39,000
	Capital	19,56,000	..	19,56,000
27	Community Deve- lopment . . . Revenue	1,35,000	..	1,35,000
	Capital	3,00,000	..	3,00,000
28	Industries . . . Revenue	30,15,000	..	30,15,000
	Capital	40,00,000	..	40,00,000
29	Electricity . . . Revenue	1,84,56,000	..	1,84,56,000
	Capital	50,04,000	..	50,04,000
30	Ports and Pilotage . . Revenue	65,000	..	65,000
	Public Debt . . . Revenue	..	75,000	75,000
	Capital	..	25,000	25,000
31	Loans to Government Servants . . . Capital	7,00,000	..	7,00,000
	TOTAL	10,43,49,000	2,43,000	10,45,92,000

**THE PUNJAB APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1984**

No. 14 OF 1984

[26th March, 1984.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of a part of the financial year 1984-85.

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

1. This Act may be called the Punjab Appropriation (Vote on Account) Act, 1984.

Short title.

2. From and out of the Consolidated Fund of the State of Punjab there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand five hundred eighty-nine crores, fifty-six lakhs and ninety-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85.

With-
drawal of
Rs. 1589,
56,97,000
from and
out of
the Con-
solidated
Fund
of the
State of
Punjab
for the
financial
year
1984-85.

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

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote/ Appri- priation	2 Services and purposes	Sums not exceeding			3 Total
		Voted by Parliament	Charged on the Consolidated Fund		
1	State Legislature . . Revenue	Rs. 55,42,000	Rs. 54,000		Rs. 55,96,000
	Staff, Household and Allowances of the Governor . . Revenue		Rs. 10,34,000		Rs. 10,34,000
2	Council of Ministers . . Revenue	Rs. 43,82,000			Rs. 43,82,000
3	Administration of Justice . . Revenue	Rs. 2,25,18,000	Rs. 46,50,000		Rs. 2,71,68,000
4	Elections . . . Revenue	Rs. 66,20,000			Rs. 66,20,000
5	Revenue . . . Revenue	Rs. 5,43,54,000	Rs. 20,000		Rs. 5,43,74,000
6	Excise and Taxation . . Revenue	Rs. 2,87,70,000	Rs. 32,000		Rs. 2,88,02,000
7	Finance . . . Revenue	Rs. 22,81,76,000	Rs. 31,000		Rs. 22,82,07,000
8	Public Service Commission . . Revenue	Rs. 9,32,000	Rs. 6,71,000		Rs. 16,03,000
9	Civil Secretariat . . Revenue	Rs. 2,40,96,000	Rs. 10,000		Rs. 2,41,06,000
10	District Administration . . Revenue	Rs. 3,32,88,000	Rs. 40,000		Rs. 3,33,28,000
11	Police . . . Revenue	Rs. 24,93,47,000	Rs. 1,41,000		Rs. 24,94,88,000
12	Jails . . . Revenue	Rs. 1,97,63,000			Rs. 1,97,63,000
13	Stationery and Printing . . Revenue	Rs. 2,19,76,000	Rs. 3,22,000		Rs. 2,62,98,000
	Capital	Rs. 9,20,000	..		Rs. 9,20,000
14	Miscellaneous Services . . Revenue	Rs. 2,52,86,000	..		Rs. 2,52,86,000
15	Rehabilitation, Relief and Resettlement . . Revenue	Rs. 30,60,000	..		Rs. 30,60,000
16	Education . . . Revenue	Rs. 91,44,12,000	Rs. 1,32,22,000		Rs. 92,76,34,000
17	Technical Education, Science and Technology . . Revenue	Rs. 1,01,32,000	..		Rs. 1,01,32,000
	Capital	Rs. 5,25,000	..		Rs. 5,25,000
18	Medical and Public Health . . Revenue	Rs. 35,73,73,000	Rs. 50,000		Rs. 35,73,73,000
	Capital	Rs. 50,00,000	..		Rs. 50,00,000
19	Housing and Urban Development . . Revenue	Rs. 1,23,38,000	Rs. 3,000		Rs. 1,23,41,000
	Capital	Rs. 3,81,96,000	..		Rs. 3,81,96,000
20	Information and Publicity . . Revenue	Rs. 91,00,000	..		Rs. 91,00,000

No. of Vote/ Ap- pro- pri- ation	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
21	Tourism and Cultural Affairs . . .	Revenue	29,06,000	..
		Capital	12,50,000	..
22	Labour, Employment and Industrial Training . . .	Revenue	4,26,93,000	5,000
		Capital	8,41,000	..
23	Social Security and Welfare . . .	Revenue	13,18,64,000	28,000
		Capital	82,00,000	..
24	Planning and Statistics . . .	Revenue	70,69,000	..
25	Co-operation . . .	Revenue	3,27,86,000	15,000
		Capital	4,64,83,000	..
26	Agriculture . . .	Revenue	14,43,66,000	23,000
		Capital	1,54,00,000	..
27	Soil and Water Conservation . . .	Revenue	1,95,75,000	3,000
28	Food . . .	Revenue	73,56,000	..
		Capital	436,14,20,000	1,80,000
29	Animal Husbandry . . .	Revenue	6,25,62,000	25,000
30	Dairy Development . . .	Revenue	29,55,000	..
31	Fisheries . . .	Revenue	46,41,000	15,000
32	Forests . . .	Revenue	5,51,48,000	1,000
33	Community Development . . .	Revenue	21,79,88,000	2,000
		Capital	3,81,00,000	..
34	Industries . . .	Revenue	5,50,60,000	53,000
		Capital	3,81,00,000	..
35	Civil Aviation . . .	Revenue	22,35,000	..
		Capital	4,00,000	..
36	Roads and Bridges . . .	Revenue	11,56,62,000	1,57,000
		Capital	11,15,00,000	..
37	Road Transport . . .	Revenue	33,09,37,000	3,75,000
		Capital	4,50,00,000	..
38	Multi-purpose River Projects . . .	Revenue	5,92,35,000	..
		Capital	15,83,08,000	..

1 No. of Vote/ Ap- pro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
39	Irrigation, Drainage and Flood Control . Revenue	Rs. 30,29,83,000	Rs. ..	Rs. 30,29,83,000
	Capital	21,34,76,000	..	21,34,76,000
40	Buildings . . . Revenue	25,73,31,000	4,50,000	25,77,81,000
	Capital	6,92,98,000	..	6,92,98,000
	Public Debt . . Capital	..	511,19,11,000	511,19,11,000
	Interest payments and Servicing of Debt . Revenue	..	45,94,23,000	45,94,23,000
41	Loans and Advances by the State Govern- ment . . . Capital	130,16,67,000	..	130,16,67,000
	TOTAL	1030,27,51,000	559,29,46,000	1589,56,97,000

THE PUNJAB APPROPRIATION ACT, 1984

No. 15 OF 1984

[26th March, 1984.]

An Act to authorise payment and appropriation of certain further sum from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1983-84.

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

1. This Act may be called the Punjab Appropriation Act, 1984.
Short title.
2. From and out of the Consolidated Fund of the State of Punjab 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 thirty crores, seventy-three lakhs and ninety-six thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1983-84, in respect of the services specified in column 2 of the Schedule.
Issue of
Rs. 530,73,
96,000
out of the
Conso-
lided
Fund
of the
State of
Punjab
for the
financial
year
1983-84.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Punjab by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.
Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote/ App- ro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	State Legislature . . . Revenue	..	13,000	13,000
2	Staff, Household and Allowances of the Governor . . . Revenue	..	7,81,000	7,81,000
3	Administration of Justice . . . Revenue	55,65,000	1,05,000	56,70,000
5	Revenue . . . Revenue	10,70,91,000	..	10,79,91,000
7	Finance . . . Revenue	1,32,93,000	..	1,32,93,000
8	Public Service Commission . . . Revenue	..	4,19,000	4,19,000
9	Civil Secretariat . . . Revenue	58,59,000	..	58,59,000
11	Police . . . Revenue	2,53,74,000	..	2,53,74,000
12	Jails . . . Revenue	31,25,000	..	31,25,000
13	Stationery and Printing . . Capital	24,55,000	..	24,55,000
15	Rehabilitation, Relief and Resettlement . . . Revenue	1,59,000	..	1,59,000
16	Education . . . Revenue	7,43,82,000	23,000	7,44,05,000
17	Technical Education, Science and Technology . . . Revenue	60,57,000	..	60,57,000
18	Medical and Public Health . . Revenue	7,44,47,000	1,60,000	7,46,07,000
22	Labour, Employment and Industrial Training . . Revenue	16,26,000	..	16,26,000
23	Social Security and Welfare . . Revenue	1,98,23,000	..	1,98,23,000
25	Co-operation . . . Revenue	74,98,000	30,00,000	1,04,98,000
		Capital	84,70,000	..
26	Agriculture . . . Revenue	2,13,29,000	..	2,13,29,000
29	Animal Husbandry . . Revenue	1,02,12,000	..	1,02,12,000
31	Fisheries . . . Revenue	31,24,000	..	31,24,000

1 No. of Vote/ Ap- pro- priation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
33	Community Development . . . Revenue	Rs. 2,000	Rs. ..	Rs. 2,000
34	Industries . . . Revenue	55,72,000	..	55,72,000
35	Civil Aviation . . . Revenue	2,70,000	..	2,70,000
37	Road Transport . . . Revenue	6,50,57,000	..	6,50,57,000
40	Buildings . . . Revenue	1,25,85,000	3,58,000	1,29,43,000
	Public Debt . . . Capital	..	454,75,88,000	454,75,88,000
	Interest Payments and Servicing of Debt . . . Revenue	..	18,97,54,000	18,97,54,000
41	Loans and Advances by the State Government . . . Capital	9,09,20,000	..	9,09,20,000
	TOTAL	56,51,95,000	474,22,01,000	530,73,96,000

**THE GANESH FLOUR MILLS COMPANY LIMITED
(ACQUISITION AND TRANSFER OF UNDER-
TAKINGS) ACT, 1984**

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF GANESH FLOUR MILLS

3. Transfer to, and vesting in, the Central Government of Ganesh Flour Mills.
4. General effect of vesting.
5. Power of Central Government to direct vesting of Ganesh Flour Mills in a Government company.
6. The Company to be liable for certain prior liabilities.

CHAPTER III

PAYMENT OF AMOUNT

7. Payment of amount.

CHAPTER IV

MANAGEMENT, ETC., OF GANESH FLOUR MILLS

8. Management, etc., of Ganesh Flour Mills.
9. Duty of persons in charge of management of Ganesh Flour Mills to deliver assets, etc.
10. Duty of persons to account for assets, etc.
11. Duty of the Company to furnish particulars.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF GANESH FLOUR MILLS

12. Continuance of employees.
13. Provident fund and other funds.

CHAPTER VI

COMMISSIONER OF PAYMENTS

SECTIONS

14. Appointment of Commissioner of Payments.
15. Payment by the Central Government to the Commissioner.
16. Priorities of claims.
17. Claims to be made to the Commissioner.
18. Proof of claims.
19. Disbursement of money by the Commissioner to claimants.
20. Undisbursed or unclaimed amount to be deposited to the general revenue account.

CHAPTER VII

MISCELLANEOUS

21. Act to have overriding effect.
22. Contracts to cease to have effect unless ratified by the Central Government or Government company.
23. Penalties.
24. Offences by Companies.
25. Protection of action taken in good faith.
26. Delegation of powers.
27. Power to make rules.
28. Power to remove difficulties.
29. Repeal and saving.

THE SCHEDULE

THE GANESH FLOUR MILLS COMPANY LIMITED
(ACQUISITION AND TRANSFER OF UNDERTAKINGS)
ACT, 1984

No. 16 OF 1984

[30th March, 1984.]

An Act to provide for the acquisition and transfer of the right, title and interest of certain undertakings of the Ganesh Flour Mills Company Limited with a view to sustaining and strengthening the nucleus of public owned or controlled units required for ensuring supply of wholesome vanaspati and refined edible oils, nutritious foods and other consumer commodities to the public at reasonable prices and thereby to give effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution.

WHEREAS the Ganesh Flour Mills Company Limited has through the Ganesh Flour Mills been engaged mainly in the manufacture and production of certain commodities, namely, vanaspati, refined edible oils, various types of nutritious foods and other consumer commodities which are essential to the needs of the community;

AND WHEREAS the management of the Ganesh Flour Mills was 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 undertakings of the Ganesh Flour Mills Company Limited in relation to the Ganesh Flour Mills for sustaining and strengthening the nucleus of public owned or controlled units required for ensuring supply of wholesome vanaspati, refined edible oils, various of nutritious foods and other consumer commodities to the public at reasonable prices;

AND WHEREAS such acquisition is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution;

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

CHAPTER I

PRELIMINARY

- Short title
and com-
mencement.
1. (1) This Act may be called the Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.

or 1984]

Ganesh Flour Mills Company Limited
(Acquisition and Transfer of Undertakings)

103

(2) It shall be deemed to have come into force on the 28th day of January, 1984.

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

Definitions.

(a) "appointed day" means the 28th day of January, 1984;

(b) "Commissioner" means the Commissioner of Payments appointed under section 14;

(c) "Company" means the Ganesh Flour Mills Company Limited, Delhi, a company within the meaning of the Companies Act, 1956, and having its registered office at Subzi Mandi, Delhi;

(d) "date of taking over" means the date on which the management of the Ganesh Flour Mills of the Company was taken over by the Board of Management by virtue of the Order of the Government of India in the late Ministry of Industrial Development No. S.O. 695(E)|18AA|IDRA|72, dated the 3rd November, 1972 made under sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951;

(e) "Ganesh Flour Mills" means—

(i) the Delhi Vanaspati Factory, Delhi;

(ii) the Hindustan Breakfast Food Manufacturing Factory, New Delhi, including the Ganesh Electrical Factory, New Delhi which is interlinked with it by reason of its location, common services and infrastructure;

(iii) the Kanpur Vanaspati Factory, Kanpur; and

(iv) the Solvent Extraction Plant, Bombay;

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

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

(h) "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;

(i) "the Government company" means the Government company in which the Ganesh Flour Mills are directed to vest under sub-section (1) of section 5;

(j) 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.

CHAPTER II

ACQUISITION AND TRANSFER OF GANESH FLOUR MILLS

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

Transfer to,
and vesting
in, the Cen-
tral Govern-
ment of
Ganesh
Flour Mills.

General
effect of
vesting.

4. (1) The Ganesh Flour Mills 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 on hand, reserve funds, investments and book debts pertaining to the Ganesh Flour Mills 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 in relation to the Ganesh Flour Mills, 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 them, 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 the amounts specified in section 7, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to the Ganesh Flour Mills which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of the Ganesh Flour Mills and, on and from the date of vesting of the Ganesh Flour Mills under section 5 in a Government company, that Government company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to that Government company and that Government company shall hold it for the remainder of the period for which the Company to which it was granted would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature instituted or preferred by or against the Company, in relation to the Ganesh Flour Mills, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the Ganesh Flour Mills 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, where the Ganesh Flour Mills vest in a Government company under section 5, by or against the Government company.

5. (1) Notwithstanding anything contained in sections 3 and 4, the Central 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 Ganesh Flour Mills and the right, title and interest of the Company in relation to the Ganesh Flour Mills which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that 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.

Central Gov.
Power of
Government to
direct vest-
ing of
Ganesh
Flour Mills
in a Gov-
ernment
company.

(2) Where the right, title and interest in relation to the Ganesh Flour Mills 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 Ganesh Flour Mills and all the rights and liabilities of the Central Government in relation to the Ganesh Flour Mills shall, on and from the date of such vesting, be deemed to have been the rights and liabilities, respectively of the Government company.

6. (1) Every liability, other than the liability specified under sub-section (2), of the Company in relation to the Ganesh Flour Mills 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, where the Ganesh Flour Mills vest in a Government company, against the Government company.

The Com-
pany to be
liable for
certain
prior
liabilities.

(2) Any liability in respect of the amount advanced, after the date of taking over, to the Company in relation to the Ganesh Flour Mills, together with interest due thereon and the wages, salaries and other dues of persons employed in the Ganesh Flour Mills in respect of any period after the date of taking over shall, on and from the appointed day, be the liability of the Central Government and shall be discharged by the Central Government or, for and on behalf of that Government, by the Government company as and when repayment of such amount becomes due or as and when such wages, salaries and other dues 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 section of this Act, no liability, other than the liability specified in sub-section (2), of the Company in relation to the Ganesh Flour Mills, in respect of a 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 Ganesh Flour Mills, passed after the appointed day, in respect of any matter, claim or dispute in relation to any matter, not being a matter referred to in sub-section (2), 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 by the Company before the appointed day, for the contravention, in relation to the Ganesh Flour Mills, 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, of the Ganesh Flour Mills and the right, title and interest of the Company in relation to the Ganesh Flour Mills, there shall be given by the Central Government to the Company in cash and in the manner specified in Chapter VI, an amount equal to a sum of one crore, fifty-seven lakhs and sixty-eight thousand rupees.

(2) In addition to the amount specified in sub-section (1), there shall also be given to the Company by the Central Government an amount calculated at the rate of ten thousand rupees per annum for the deprivation of the Company of the management of the Ganesh Flour Mills for the period commencing on the date of taking over and ending with the appointed day.

(3) The amount specified in sub-section (1) and the amount calculated in accordance with the provisions of sub-section (2) 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 amount is made by the Central Government to the Commissioner.

CHAPTER IV

MANAGEMENT, ETC., OF GANESH FLOUR MILLS

Management, etc., of Ganesh Flour Mills.

8. (1) On the appointed day, the general superintendence, direction, control and management of the affairs and business of the Ganesh Flour Mills shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 5, vest in the Government company specified in such direction; or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to the Ganesh Flour Mills.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian or Custodians of the Ganesh Flour Mills in relation to which no direction has been made by it under sub-section (1) of section 5.

(3) The Custodian or Custodians so appointed shall receive, from the funds of the Ganesh Flour Mills such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

(4) The Custodians or Custodians of the Ganesh Flour Mills shall maintain an account of the Ganesh Flour Mills in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the accounts so maintained as they apply to the audit of the accounts of a company.

9. On the vesting in the Central Government or a Government company of the Ganesh Flour Mills, all persons in charge of the management of the Ganesh Flour Mills 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 Ganesh Flour Mills.

Duty of persons in charge of management of Ganesh Flour Mills to deliver assets, etc.

10. (1) 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 Ganesh Flour Mills which has vested in the Central Government or a Government company under this Act, and which belongs to the Company or would have so belonged if the Ganesh Flour Mills 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, as the case may be, 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.

Duty of persons to account for assets, etc.

(2) The Central Government may take or cause to be taken all necessary steps for securing possession of the Ganesh Flour Mills which has vested in it under section 3.

11. The 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 Ganesh Flour Mills which has vested in the Central Government under section 3, and for this purpose, the Central Government or the Government company shall afford the Company all reasonable facilities.

Duty of the Company to furnish particulars.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF GANESH FLOUR MILLS

12. (1) Every person who has been, immediately before the appointed day, employed by the Company in connection with the Ganesh Flour Mills shall become,—

Continuance of employees.

(a) on and from the appointed day, an employee of the Central Government; and

(b) where the Ganesh Flour Mills is directed, under sub-section (1) of section 5, to vest in a Government company, an employee of that company on and from the date of such vesting,

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 like 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 or other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(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 connection with the Ganesh Flour Mills 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.

13. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of persons employed in the Company, the monies relatable to the officers and other 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 fund, 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.

14. (1) The Central Government shall, for the purpose of disbursing the amounts payable under section 7 to the 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 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.

15. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company an amount equal to the amounts specified in section 7.

(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

15.1.1985: vide Notifn No. S.O. 928(E), dtl 11.12.84.

credit of the said deposit account, and thereafter the said deposit account shall be operated by the Commissioner.

(3) Interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

16. The claims arising out of 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, 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; and

(c) 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.

17. Every person having a claim against the Company in relation to the Ganesh Flour Mills with regard to any of the matters specified in the Schedule 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.

18. (1) 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 disbursements 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 any daily newspaper in the English language having circulation in the major part of the country and in one issue of any daily newspaper in such 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 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, by order, 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 any investigation under this Act, have the same powers, as are vested in a

Priorities,
of claims.

Claims to
be made to
the Com-
missioner.

Proof of
claims.

15.1.1985; vide Note fn No. S.O. 928 (E), dt. 11.1.1984

civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect ⁵ of 1908, of the following matters; namely:—

(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 with 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, such appeal shall lie to the High Court of Delhi and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by the Commissioner to claimants.

19. (1) 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 amount is due and on such payment, the liability of the Company in respect of such claim shall stand discharged.

(2) If, out of the monies paid to him in relation to the Ganesh Flour Mills, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

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

20. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be paid by the Commissioner, before his office is finally wound up, 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, and the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect.

21. 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.

22. Every contract, entered into by the Company in relation to the Ganesh Flour Mills 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 a period of thirty 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 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:

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—

Contracts
to cease to
have effect
unless
ratified by
the Central
Govern-
ment or
Govern-
ment com-
pany.

(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 Central Government or the Government company; and

(b) 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.

23. Any person who,—

Penalties.

(a) having in his possession, custody or control any property forming part of the Ganesh Flour Mills, 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 Ganesh Flour Mills; 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 Ganesh Flour Mills which may be in his possession, custody or control; or

(d) wilfully fails to deliver to the Central Government any inventory of property and assets forming part of the Ganesh Flour Mills; or

(e) 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 Ganesh Flour Mills; or

(f) wrongfully removes or destroys any property forming part of the Ganesh Flour Mills 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.

24. (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 corporated 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.

25. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Custodian or the Government company or any person authorised by that Government or the Custodian or the Government company 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 any officer or other employee of that Government or the Custodian or the Government company or any person authorised by that Government or the Custodian or 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.

Delegation of powers.

26. (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 this section, sections 27 and 28, 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.

27. (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, any intimation referred to in sub-section (3) of section 4 shall be given;

(b) the form and manner in which, and the conditions under which, the Custodian or Custodians shall maintain accounts as required by sub-section (4) of section 8;

(c) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 13 shall be dealt with;

(d) 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 for 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.

28. 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.

29. (1) The Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984, is hereby repealed.

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

Power to
remove
difficulties.

Repeal and
saving.

THE SCHEDULE

[See sections 16, 17 and 19(2)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

Category I—

(a) Wages, salaries and other dues payable to the employees of the Company.

(b) Deductions made from the salaries and wages of the employees for provident fund, Employees State Insurance Fund, contribution premium relating to Life Insurance Corporation of India or for any other purposes.

Category II—

Secured loans.

Category III—

Revenue, taxes, cesses, rates or other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category IV—

Any other loans or dues.

**THE INCHEK TYRES LIMITED AND NATIONAL RUBBER
MANUFACTURERS LIMITED (NATIONALISATION)
ACT, 1984**

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE TWO COMPANIES

3. Transfer to, and vesting in, the Central Government of the undertakings of the two companies.
4. General effect of vesting.
5. Companies to be liable for certain prior liabilities.
6. Power of Central Government to direct vesting of the undertakings of the two companies in an existing Government company.
7. Transfer of the undertakings of the two companies from an existing Government company to a new Government company.

CHAPTER III

PAYMENT OF AMOUNTS

8. Payment of amount.
9. Payment of further amounts.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE TWO COMPANIES

10. Management, etc., of the undertakings of the two companies.
11. Duty of persons in charge of management of undertakings of the two companies to deliver all assets, etc.
12. Duty of persons to account for assets, etc., in their possession.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE TWO COMPANIES

13. Continuance of employees.
14. Provident fund and other funds.

CHAPTER VI

COMMISSIONER OF PAYMENTS

SECTIONS

15. Appointment of Commissioner of Payments.
16. Payment by Central Government to the Commissioner.
17. Certain powers of Central Government or existing, or new, Government company.
18. Claims to be made to the Commissioner.
19. Priority of claims.
20. Examination of claims.
21. Admission or rejection of claims.
22. Disbursement of money by Commissioner.
23. Disbursement of amounts to the companies.
24. Undisbursed or unclaimed amount to be deposited with the general revenue account.

CHAPTER VII

MISCELLANEOUS

25. Act to have overriding effect.
26. Contracts to cease to have effect unless ratified by the Central Government or existing, or new, Government company.
27. Penalties.
28. Offences by companies.
29. Protection of action taken in good faith.
30. Delegation of powers.
31. Power to make rules.
32. Power to remove difficulties.
33. Repeal and saving.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

**THE INCHEK TYRES LIMITED AND NATIONAL RUBBER
MANUFACTURERS LIMITED (NATIONALISATION)
ACT, 1984**

No. 17 OF 1984

[31st March, 1984.]

An Act to provide for the acquisition and transfer of the undertakings of the Inchek Tyres Limited and the National Rubber Manufacturers Limited, with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued manufacture, production and distribution of tyres, tubes and other rubber goods which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

WHEREAS the Inchek Tyres Limited and the National Rubber Manufacturers Limited had been engaged in the manufacture, production and distribution of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, tyres, tubes and other rubber goods;

AND WHEREAS the management of the undertakings of the Inchek Tyres Limited and the management of the undertakings of the National Rubber Manufacturers Limited were taken over by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951;

AND WHEREAS for the purpose of securing the optimum utilisation of the available facilities for the manufacture, production and distribution of tyres, tubes and other rubber goods by the undertakings of the two companies, investment of a large amount is necessary;

AND WHEREAS it is necessary to acquire the undertakings of the Inchek Tyres Limited and the National Rubber Manufacturers Limited to enable the Central Government to have such investments made and to ensure that the interests of the general public are served by the continuance, by the undertakings of the companies, of the manufacture, production and distribution of the aforesaid articles which are essential to the needs of the economy of the country;

of 1984]

Incheek Tyres Limited and National Rubber
Manufacturers Limited (Nationalisation)

117

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Incheek Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Act, 1984.

(2) It shall be deemed to have come into force on the 14th day of February, 1984.

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

(a) "appointed day" means the 14th day of February, 1984;

(b) "Commissioner" means the Commissioner of Payments appointed under section 15;

(c) "existing Government company" means a Government company which is carrying on business on the appointed day;

(d) "new Government company" means a Government company formed and registered on or after the appointed day;

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

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

(g) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision, and different dates may be specified for different provisions of this Act;

(h) "two companies" means the Incheek Tyres Limited and the National Rubber Manufacturers Limited, being companies as defined in the Companies Act, 1956, and having their registered offices at "Leslie House", 19-Jawaharlal Nehru Road, Calcutta-700013;

(i) 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.

Short title and commencement.

Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE TWO COMPANIES

Transfer
to, and
vesting
in, the
Central
Govern-
ment of
the un-
der-
tak-
ings of
the two
com-
panies.

General
effect of
vesting.

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

4. (1) The undertakings of each of the two companies 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 on hand, cheques, demand drafts, reserve funds, investments, 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 such company whether within or outside India, and all books of account, registers and all 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 them, and any attachment, injunction, decree or order of any court, tribunal 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 the amount specified, in relation to the company owning such property, in the First Schedule, and also out of the amounts referred to in section 9, but, no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to either of the two companies in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately

before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking under section 6 in an existing Government company, or under section 7 in a new Government company, the existing, or new, Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company, shall hold it for the remainder of the period for which the company to which it was granted would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature, in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against either of the two companies 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 such 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 where the undertakings of the two companies vest under section 6 or section 7 in an existing, or a new, Government company, by or against such Government company.

5. (1) Every liability, other than the liability specified in sub-section (2), of each of the two companies in respect of any period prior to the appointed day, shall be the liability of the concerned company and shall be enforceable against it and not against the Central Government, or where the undertakings of the two companies vest in an existing, or a new, Government company, against such Government company.

Companies to be liable for certain prior liabilities.

(2) Any liability arising in respect of materials supplied to either of the two companies after the management of its undertakings had been taken over by the Central Government, shall, on and from the appointed day, be the liability of the Central Government or of the existing, or new, Government company aforesaid, and shall be discharged by that Government or, as the case may be, the existing, or new, Government company, as and when repayment for such supplies becomes 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, other than the liability specified in sub-section (2), of either of the two companies in relation to its undertakings in respect of any period prior to the appointed day shall be enforceable against the Central Government, or, where the undertakings of the two companies vest in an existing, or a new, Government company, against such Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of either of the two companies, passed on or 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 where the undertakings of the two

companies vest in an existing, or a new, Government company, against such Government company;

(c) no liability incurred by either of the two companies 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, where the undertakings of the two companies vest in an existing, or a new, Government company, against such Government company.

Power of Central Government to direct vesting of the undertakings of the two companies in an existing Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 7, the Central Government may, if it is satisfied that an existing 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 each of the two companies and the right, title and interest of each of the two companies in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing 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 of the two companies in relation to their undertakings vest, under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting, be deemed to have become, and, until the transfer of the undertakings, by virtue of the provisions of section 7, to a new Government company, be deemed to be, the owner in relation to such undertakings, and 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, and, until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

Transfer of the undertakings of the two companies from an existing Government company to a new Government company.

7. (1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of each of the two companies have been directed, under sub-section (1) of section 6, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of each of the two companies and the right, title and interest of each of the two companies in relation to its undertakings be transferred to that new Government company, and on the issue of such declaration, the right, title and interest of each of the two companies in relation to its undertakings which had been directed under sub-section (1) of section 6 to vest in an existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made.

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the two companies vest, under sub-section (1), in a new Government company, that Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the existing Government company 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 that new Government company.

CHAPTER III

PAYMENT OF AMOUNTS

8. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of each of the two companies, and the right, title and interest of each of the two companies in relation to its undertakings, there shall be paid by the Central Government to each of the two companies, in cash and in the manner specified in Chapter VI, amount equal to the amount specified against the name of such company in the First Schedule.

Payment
of
amount.

65 of 1951.

9. (1) For the deprivation of the two companies of the management of their undertakings during the period commencing on the date on which the undertakings of each such company was taken over in pursuance of the orders made by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951 and ending on the appointed day, there shall be paid by the Central Government to each of the companies in cash, an amount of rupees fifty thousand.

Payment
of fur-
ther
amounts.

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

(4) For the removal of doubts, it is hereby declared that the liabilities of either of the two companies in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in section 8, and also from the amount specified in sub-section (1) and the amount determined under sub-section (2), in accordance with the rights and interests of the creditors of the two companies.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE TWO COMPANIES

10. The general superintendence, direction, control and management of the affairs and business of the undertakings of each of the two companies, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

Manage-
ment, etc.,
of the
under-
taking
of the
two com-
panies.

(a) where a direction has been given by the Central Government under sub-section (1) of section 6, vest on and from the date specified in such direction, in the existing Government company specified therein; or

(b) where a declaration has been made under sub-section (1) of section 7, vest, on and from the date of such declaration, in the new Government company specified therein,

and thereupon the existing, or new, Government company so specified, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as either, or both, of the two companies, is or are authorised to exercise and do in relation to its or their undertakings.

Duty of persons in charge of management of undertakings of the two companies to deliver all assets, etc.

Duty of persons to account for assets, etc., in their possession.

11. (1) On the vesting of the management of the undertakings of the two companies in an existing, or a new, Government company, all persons in charge of the management of the undertakings of either of the two companies immediately before such vesting shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody relating to the undertakings.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the two companies shall be conducted or in relation to any other matter arising in the course of such management.

12. (1) Any person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to the undertakings owned by either of the two companies, which have vested in the Central Government or in an existing, or a new, Government company under this Act, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the existing, or new, Government company, as the case may be, and shall deliver them to the Central Government or the existing, or new, Government company or to such person or persons as the Central Government or the existing, or new, Government company may specify in this behalf.

(2) The Central Government or the Government company aforesaid may take, or cause to be taken, all necessary steps for securing possession of the undertakings of the two companies which have vested in the Central Government or the Government company under this Act.

(3) The two companies shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all their properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the Government company aforesaid shall afford to the two companies all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE TWO COMPANIES

Continuance of employees.

13. (1) Every person who has been, immediately before the appointed day, employed in any undertaking of either of the two companies shall become,—

(a) on and from the appointed day, an employee of the Central Government, and

(b) where the undertakings of the two companies are directed, under section 6 or under section 7, to vest, in an existing, or a new, Government company, an employee of such Government company on and from the date of such vesting,

and shall hold office or service under the Central Government or the existing, or new, Government company, as the case may be, with the rights and privileges as to pension, gratuity and other matters, admissible to him immediately

before the appointed day, as modified by the Memorandum of Settlement signed by the representatives of the management and the employees of each of the two companies on the 10th day of February, 1984, and shall continue to do so unless and until his employment under the Central Government or the existing, or new, 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 existing, or new, Government company, as the case may be.

4 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 undertaking of either of the two companies, to the Central Government or the existing, or new, 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.

14. (1) Where either of the two companies has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in any of its undertakings, the moneys relatable to the officers or other employees whose services have become transferred by or under this Act to the Central Government or an existing, or a new, Government company shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and shall vest in, the Central Government or the existing, or new, Government company, as the case may be.

Provident
fund
and
other
funds.

(2) The moneys which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be, shall be dealt with by that Government or the existing, or new, Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

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

Appoint-
ment of
Commis-
sioner of
Parlia-
ments.

(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
Govern-
ment to
the Com-
missioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to each of the two companies,—

(a) an amount equal to the amount specified against the name of such company in the First Schedule; and

(b) an amount equal to the amounts payable to each of the two company in the First Schedule; and

(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 the undertakings of each of the two companies in relation to which payments have been made to him under this Act.

(4) Interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the two companies.

Certain
powers
of Central
Govern-
ment or
existing,
or new,
Govera-
ment com-
pany.

17. (1) The Central Government or the existing, or new, 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 either of the two companies in relation to its undertakings which have vested in the Central Government or the existing, or new, Government company, as the case may be, 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 existing, or new, 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 either of the two companies, 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 existing, or new, Government company.

(3) Save as otherwise provided in this Act, the liabilities of either of the two companies 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 respective company.

Claims
to be
made to
the
Commis-
sioner.

18. Every person having a claim against either of the two companies with regard to any of the matters specified in the Second Schedule pertaining to any 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 other categories and Category II shall have precedence over Category III, and so on;

1. 1.2. 1984! Vide Notifn. No. S.O. 895(C), dt. 30.11.1984.
2. 1.4. 1985! Vide Notifn. No. S.O. 24 (C), dt. 17.1.1985.

(b) the claims specified in each of the categories 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; and

(c) 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.

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.

Examination of claims.

(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.

21. (1) After examining the claims with reference to the priorities specified in the Second Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim.

Admission or rejection of claims.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and in one issue of any daily newspaper in such 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.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the concerned company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, admit or reject by order in writing 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 may hold his sittings 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:—

(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.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against such decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned 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 exercising jurisdiction over the place in which the registered office of the concerned 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.

Disbursement of amounts to the companies.

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

Act to have overriding effect

Contracts to cease to have effect unless ratified by the Central Government or existing or New Government company.

22. 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 amount is due, and on such payment, the liability of each of the two companies in respect of such claim shall stand discharged.

23. (1) If, out of the moneys paid to him in relation to the undertakings of either of the two companies, there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to the concerned company.

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

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, 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, and the order, if any, for the payment of the claim being treated as an order for the refund of revenue.

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.

26. Every contract entered into by either of the two companies in relation to any of its undertakings 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 a period of one hundred and eighty days from such day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the existing, or new, Government company and in ratifying such contract, the Central Government or the existing, or new, Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or the existing, or new, Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(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 Central Government or such Government company; and

(b) 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.

27. Any person who,—

(a) having in his possession, custody or control any property forming part of any undertaking of either of the two companies, wrongfully withholds such property from the Central Government or the existing, or new, Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of either of the two companies; or

(c) wilfully withholds or fails to furnish to the Central Government or the existing, or new, Government company or any person or body of persons specified by that Government or Government company, any document relating to such undertaking, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the existing, or new, Government company, as the case may be, or any person or body of persons specified by that Government, or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of either of the two companies; or

(e) wrongfully removes or destroys any property forming part of any undertaking of either of the two companies or prefers any claim 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.

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

Penalties

Offences
by com-
panies

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.

29. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the existing, or new, Government company or any officer or other employee of that Government or the Government company or any person authorised by that Government or 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 the existing, or new, Government company, or any officer or other employee of that Government or Government company or any person authorised by that Government or 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.

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 this section, section 31 or section 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 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 referred to in sub-section (3) of section 4 shall be given;

(b) the manner in which the moneys in any provident fund or other fund referred to in 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 re-
move diffi-
culties.**

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.

4 of 1984.

Repeal and
saving.

33. (1) The Incheek Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Ordinance, 1984, is hereby repealed.

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

THE FIRST SCHEDULE

[See sections 4(4), 8 and 16(1)]

Sl. No.	Name of the Company	Amount (Rupees in lakhs)
1.	Incheek Tyres Limited	330.40
2.	National Rubber Manufacturers Limited	159.64

THE SECOND SCHEDULE

[See sections 18, 19, 20(1), 21(1) and 23(1)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE TWO COMPANIES

Category I—

(a) Wages, salaries and other dues payable to the employees of the companies.

(b) Arrears in relation to contributions to be made by the companies to the provident fund, Employees' State Insurance Fund, Life Insurance Corporation premium and any other arrear under any law for the time being in force.

Post-take-over management period

Category II—

Principal amount of loans advanced by—

- (a) the Central Government;
- (b) a State Government;
- (c) banks and public financial institutions;
- (d) any other sources.

Category III—

(a) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations, other than the liabilities specified in sub-section (2) of section 5.

(b) Any dues of State Electricity Boards or other Government and semi-Government institutions against supply of goods or services, other than the liabilities specified in sub-section (2) of section 5.

(c) Arrears of interest on loans and advances.

Category IV—

(a) Revenue, taxes, cesses, rates or other dues to Central Government, a State Government or any local authority.

(b) Any other dues.

*Pre-take-over management period**Category V—*

Principal amount of secured loans advanced by—

- (a) the Central Government;
- (b) a State Government;
- (c) banks and public financial institutions.

Category VI—

Principal amount of unsecured loans advanced by—

- (a) the Central Government;
- (b) a State Government;
- (c) banks and public financial institutions;
- (d) any other sources.

Category VII—

- (a) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations.
- (b) Any dues of State Electricity Boards or other Government and semi-Government institutions against supply of goods or services.
- (c) Arrears of interest on loans and advances.
- (d) Revenue, taxes, cesses, rates or other dues to Central Government, a State Government or any local authority.
- (e) Any other loans or dues

THE APPROPRIATION (No. 3) ACT, 1984

No. 18 OF 1984.

[8th May, 1984.]

An Act to authorise payment and appropriation of certain sum from and out of the consolidated Fund of India for the services of the financial year 1984-85.

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

1. This Act may be called the Appropriation (No. 3) Act, 1984. 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, 1984] to the sum of one lakh seventy-six thousand nine hundred and thirty crores, thirty-eight lakhs and seventy-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85 in respect of the services specified in column 2 of the Schedule. Issue of Rs.
1769.30,
38,73,000
out of the
Consolidated
Fund of
India
for the
year
1984-85.
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 day of February, 1984 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 refer-
ences to
Minis-
tries and
Depart-
ments
in the
Schedule.

THE SCHEDULE
(See sections 2, 3 and 4)

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 and Co-operation . . . Revenue	4,32,42,000	10,000	4,32,52,000
2	Agriculture . . . Revenue	110,43,41,000	..	110,43,41,000
	Capital	1210,46,80,000	200,97,40,000	1411,44,20,000
3	Fisheries . . . Revenue	22,55,37,000	..	22,55,37,000
	Capital	10,01,85,000	2,10,00,000	12,11,85,000
4	Animal Husbandry and Dairy Development . . . Revenue	152,04,32,000	20,000	152,04,52,000
	Capital	46,41,10,000	1,40,00,000	47,81,10,000
5	Forest . . . Revenue	51,31,75,000	..	51,31,75,000
	Capital	79,74,000	19,84,00,000	20,63,74,000
6	Co-operation . . . Revenue	7,93,00,000	..	7,93,00,000
	Capital	315,36,25,000	8,09,75,000	323,46,00,000
7	Department of Agricultural Research and Education . . . Revenue	77,55,000	..	77,55,000
8	Payments to Indian Council of Agricultural Research . . . Revenue	134,40,39,000	..	134,40,39,000
9	Ministry of Chemicals and Fertilizers . . . Revenue	990,80,26,000	..	990,80,26,000
	Capital	609,17,01,000	1,00,00,000	610,17,01,000
10	Ministry of Commerce . . . Revenue	2,66,70,000	..	2,66,70,000
11	Foreign Trade and Export Production . . . Revenue	662,70,30,000	..	662,70,30,000
	Capital	520,65,00,000	..	520,65,00,000
12	Textiles, Handloom and Handicrafts . . . Revenue	351,12,14,000	..	351,12,14,000
	Capital	191,05,93,000	11,75,83,000	202,81,16,000
13	Ministry of Communications . . . Revenue	5,66,58,000	..	5,66,58,000
	Capital	44,95,00,000	..	44,95,00,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
14	Overseas Communications Service . . . Revenue	36,54,86,000	..	36,54,86,000
	Capital	13,83,00,000	..	13,83,00,000
15	Posts and Telegraphs—Working Expenses . . . Revenue	1581,29,05,000	8,01,00,000	1589,30,05,000
16	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Other Expenditure . . . Revenue	318,47,41,000	..	318,47,41,000
17	Capital Outlay on Posts and Telegraphs Capital	826,31,30,000	1,00,000	826,32,30,000
18	Ministry of Defence . . . Revenue	414,85,83,000	25,000	414,86,08,000
	Capital	157,10,99,000	2,57,23,000	159,68,22,000
19	Defence Services—Army . . . Revenue	3892,09,47,000	53,50,000	3892,62,97,000
20	Defence Services—Navy . . . Revenue	503,68,90,000	2,10,000	503,71,00,000
21	Defence Services—Air Force . . . Revenue	1426,85,01,000	4,99,000	1426,90,00,000
22	Defence Services—Pensions . . . Revenue	563,84,00,000	35,01,00,000	598,85,00,000
23	Capital Outlay on Defence Services Capital	719,57,00,000	5,10,00,000	724,67,00,000
24	Department of Education . . . Revenue	4,04,98,000	..	4,04,98,000
25	Education . . . Revenue	417,46,91,000	..	417,46,91,000
	Capital	32,40,000	4,00,00,000	4,32,40,000
26	Department of Culture . . . Revenue	20,19,42,000	..	20,19,42,000
27	Archaeology . . . Revenue	11,45,00,000	..	11,45,00,000
28	Department of Petroleum . . . Revenue	2,63,79,000	..	2,63,79,000
	Capital	382,29,20,000	..	382,29,20,000
29	Department of Power . . . Revenue	191,63,40,000	..	191,63,40,000
	Capital	1291,08,26,000	12,22,00,000	1303,30,26,000
30	Department of Coal . . . Revenue	144,31,57,000	..	144,31,57,000
	Capital	1205,54,15,000	..	1205,54,15,000
31	Department of Non-Conventional Energy Sources . . . Revenue	37,89,12,000	..	37,89,12,000
	Capital	3,000	..	3,000
32	Ministry of External Affairs . . . Revenue	203,90,31,000	25,000	203,90,56,000
	Capital	62,29,00,000	..	62,29,00,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
33	Ministry of Finance . . Revenue	10,45,48,000	..	10,45,48,000
	Capital	1,000	..	1,000
34	Customs . . . Revenue	64,07,55,000	45,000	64,08,00,000
	Capital	22,03,95,000	..	22,03,95,000
35	Union Excise Duties . . Revenue	86,18,64,000	3,06,000	86,21,70,000
36	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax Revenue	95,62,89,000	1,33,000	95,64,22,000
37	Stamps : . . Revenue	39,29,48,000	..	39,29,48,000
	Capital	2,06,00,000	..	2,06,00,000
38	Audit . . . Revenue	107,77,28,000	2,03,74,000	109,81,02,000
39	Currency, Coinage and Mint . . . Revenue	79,03,60,000	..	79,03,60,000
	Capital	40,44,27,000	..	40,44,27,000
40	Pensions . . . Revenue	127,27,94,000	20,78,78,000	148,06,72,000
41	Opium and Alkaloid Factories . . . Revenue	39,24,40,000	1,000	39,24,41,000
	Capital	1,16,42,000	..	1,16,42,000
42	Transfers to State Governments . . . Revenue	1947,32,42,000	4991,76,00,000	6939,08,42,000
	Capital	..	4826,30,50,000	4826,30,50,000
	CHARGED—Interest Pay- ments . . . Revenue	..	5600,00,00,000	5600,00,00,000
43	Other Expenditure of the Ministry of Finance . . . Revenue	912,93,10,000	20,000	912,93,30,000
	Capital	672,06,17,000	..	672,06,17,000
44	Loans to Government Servants, etc. . . Capital	102,98,43,000	..	102,98,43,000
	CHARGED—Repayment of Debt . . Capital	..	126100,63,52,000	126100,63,52,000
45	Department of Food . . Revenue	1041,07,91,000	50,000	1041,08,41,000
	Capital	51,03,10,000	19,51,000	51,22,61,000
46	Department of Civil Supplies . . . Revenue	5,73,57,000	..	5,73,57,000
	Capital	8,43,51,000	4,14,00,000	12,57,51,000
47	Ministry of Health and Family Welfare . . Revenue	1,75,84,000	..	1,75,84,000
48	Medical and Public Health . . . Revenue	254,69,67,000	60,000	254,70,27,000
	Capital	86,93,43,000	2,15,000	86,95,58,000

1 No. of Vote	2 Services and purposes	Sums not exceeding			3 Total Rs.
		Voted by Parliament Rs.	Charged on the Consolidated Fund Rs.		
49	Family Welfare . . . Revenue	469,17,06,000	..	469,17,06,000	
	Capital	50,00,000	..	50,00,000	
50	Ministry of Home Affairs . . . Revenue	5,63,91,000	..	5,63,91,000	
51	Cabinet . . . Revenue	7,17,16,000	..	7,17,16,000	
52	Department of Personnel and Administrative Reforms . . . Revenue	13,15,71,000	5,000	13,15,76,000	
	Capital	..	3,00,00,000	3,00,00,000	
53	Police . . . Revenue	461,32,28,000	1,30,000	461,33,58,000	
	Capital	25,68,93,000	3,76,00,000	29,44,93,000	
54	Other Administrative and General Services . . . Revenue	175,82,88,000	..	175,82,88,000	
	Capital	35,34,39,000	..	35,34,39,000	
55	Other Expenditure of the Ministry of Home Affairs . . . Revenue	362,34,19,000	154,93,33,000	517,27,52,000	
	Capital	165,42,01,000	2,55,57,000	167,97,58,000	
56	Delhi . . . Revenue	340,24,57,000	1,34,71,000	341,59,28,000	
	Capital	252,16,92,000	8,00,00,000	260,16,92,000	
57	Chandigarh . . . Revenue	57,95,99,000	1,56,82,000	59,52,81,000	
	Capital	24,73,10,000	75,00,000	25,48,10,000	
58	Andaman and Nicobar Islands . . . Revenue	53,81,75,000	10,000	53,81,85,000	
	Capital	31,44,56,000	..	31,44,56,000	
59	Dadra and Nagar Haveli . . . Revenue	5,76,37,000	..	5,76,37,000	
	Capital	5,89,13,000	..	5,89,13,000	
60	Lakshadweep . . . Revenue	14,12,98,000	..	14,12,98,000	
	Capital	3,23,59,000	..	3,23,59,000	
61	Ministry of Industry . . . Revenue	5,58,87,000	..	5,58,87,000	
62	Industries . . . Revenue	154,26,98,000	..	154,26,98,000	
	Capital	339,06,09,000	..	339,06,09,000	
63	Village and Small Industries . . . Revenue	147,45,19,000	19,50,00,000	166,95,19,000	
	Capital	167,03,24,000	7,07,00,000	174,10,24,000	
64	Ministry of Information and Broadcasting . . . Revenue	1,41,12,000	..	1,41,12,000	

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
65	Information and Publicity . . . Revenue	35,37,22,000	..	35,37,22,000
	Capital	1,31,00,000	..	1,31,00,000
66	Broadcasting . . . Revenue	139,20,43,000	1,00,000	139,21,43,000
	Capital	119,32,21,000	1,00,000	119,33,21,000
67	Ministry of Irrigation . . . Revenue	136,47,09,000	95,000	136,48,04,000
	Capital	17,10,15,000	47,44,00,000	64,54,15,000
68	Department of Labour . . . Revenue	1,60,00,000	..	1,60,00,000
69	Labour and Employment . . . Revenue	97,42,31,000	25,000	97,42,56,000
	Capital	32,01,000	..	32,01,000
70	Department of Rehabilitation . . . Revenue	20,76,11,000	62,000	20,76,73,000
	Capital	6,61,92,000	8,44,03,000	15,05,95,000
71	Ministry of Law, Justice and Company Affairs . . . Revenue	74,83,97,000	..	74,83,97,000
	Capital	1,00,000	..	1,00,000
72	Administration of Justice . . . Revenue	1,00,47,000	1,77,87,000	2,78,34,000
73	Ministry of Planning . . . Revenue	6,55,000	..	6,55,000
74	Statistics . . . Revenue	24,55,89,000	..	24,55,89,000
75	Planning Commission . . . Revenue	7,15,99,000	..	7,15,99,000
76	Ministry of Rural Development . . . Revenue	938,38,58,000	6,000	938,38,64,000
	Capital	17,74,000	..	17,74,000
77	Ministry of Shipping and Transport . . . Revenue	5,37,12,000	..	5,37,12,000
78	Road . . . Revenue	205,70,66,000	2,50,000	205,73,16,000
	Capital	233,21,95,000	24,42,50,000	257,64,45,000
79	Port, Lighthouses and Shipping . . . Revenue	94,26,74,000	3,000	94,26,77,000
	Capital	178,03,80,000	1,00,00,000	179,03,80,000
80	Road and Inland Water Transport . . . Revenue	6,00,54,000	..	6,00,54,000
	Capital	80,41,81,000	66,00,000	81,07,81,000
81	Ministry of Social Welfare . . . Revenue	90,08,08,000	..	90,08,08,000
	Capital	1,33,08,000	..	1,33,08,000

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		Rs.
		Voted by Parlia- ment	Charged on the Consolidated Fund	
82	Department of Steel . . Revenue	3,92,01,000	..	3,92,01,000
	Capital	759,76,00,000	3,00,50,000	762,76,50,000
83	Department of Mines . . Revenue	111,85,63,000	5,00,000	111,90,63,000
	Capital	190,70,00,000	..	190,70,00,000
84	Ministry of Tourism and Civil Aviation . . Revenue	1,27,67,000	..	1,27,67,000
85	Meteorology . . Revenue	26,25,66,000	..	26,25,66,000
	Capital	6,42,00,000	..	6,42,00,000
86	Aviation . . Revenue	46,10,09,000	20,000	46,10,29,000
	Capital	86,26,00,000	..	86,26,00,000
87	Tourism . . Revenue	11,84,74,000	..	11,84,74,000
	Capital	11,61,03,000	..	11,61,03,000
88	Ministry of Works and Housing . . Revenue	1,95,59,000	..	1,95,59,000
89	Public Works . . Revenue	114,32,98,000	..	114,32,98,000
	Capital	63,24,13,000	10,00,000	63,34,13,000
90	Water Supply and Sewerage . . Revenue	246,96,00,000	..	246,96,00,000
91	Housing and Urban Development . . Revenue	31,17,00,000	1,56,65,000	32,73,65,000
	Capital	71,56,13,000	18,90,49,000	90,46,62,000
92	Stationery and Printing Revenue	61,79,49,000	4,000	61,79,53,000
93	Department of Atomic Energy . . Revenue	1,11,52,000	..	1,11,52,000
94	Atomic Energy Research, Development and Industrial Projects . . Revenue	161,70,15,000	..	161,70,15,000
	Capital	363,29,45,000	..	363,29,45,000
95	Nuclear Power Schemes Revenue	186,74,88,000	..	186,74,88,000
	Capital	140,00,00,000	..	140,00,00,000
96	Department of Electronics . . Revenue	30,22,00,000	..	30,22,00,000
	Capital	21,58,00,000	..	21,58,00,000
97	Department of Environment . . Revenue	26,00,69,000	..	26,00,69,000
	Capital	8,00,000	..	8,00,000
98	Department of Ocean Development . . Revenue	21,16,00,000	..	21,16,00,000
	Capital	3,30,00,000	..	3,30,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
99	Department of Science and Technology . . Revenue	51,20,49,000	..	51,20,49,000
	Capital	2,77,00,000	..	2,77,00,000
100	Survey of India . . Revenue	32,49,92,000	..	32,49,92,000
	Capital	10,00,000	..	10,00,000
101	Grants to Council of Scientific and Indus- trial Research . . Revenue	113,00,00,000	..	113,00,00,000
102	Department of Space . . Revenue	95,06,25,000	..	95,06,25,000
	Capital	87,81,55,000	2,25,000	87,83,80,000
103	Department of Sports . . Revenue	25,98,00,000	..	25,98,00,000
	Capital	7,95,000	..	7,95,000
104	Department of Supply . . Revenue	44,42,000	..	44,42,000
105	Supplies and Disposals . . Revenue	13,78,04,000	15,00,000	13,93,04,000
106	Lok Sabha . . Revenue	10,18,69,000	5,00,000	10,23,69,000
107	Rajya Sabha . . Revenue	3,76,48,000	1,61,000	3,78,09,000
108	Department of Parlia- mentary Affairs . . Revenue	38,52,000	..	38,52,000
	CHARGED—Staff, House- hold and Allowances of the President . . Revenue	..	1,25,09,000	1,25,09,000
109	Secretariat of the Vice- President . . Revenue	9,72,000	..	9,72,000
	CHARGED—Union Pub- lic Service Commission . . Revenue	..	4,16,31,000	4,16,31,000
	TOTAL	34756,14,95,000	142174,23,78,000	176930,38,73,000

THE GOVERNMENT OF UNION TERRITORIES
(AMENDMENT) ACT, 1984

No. 19 OF 1984

[8th May, 1984.]

An Act further to amend the Government of Union Territories Act, 1963.

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

1. This Act may be called the Government of Union Territories (Amendment) Act, 1984. Short title.

20 of 1963. ~~2. In section 3 of the Government of Union Territories Act, 1963 (hereinafter referred to as the principal Act), in sub-section (5), the following Explanation shall be inserted, namely:~~ Amendment of section 3.

Explanation.—In this sub-section, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

3. In Part III of the principal Act, after section 43D, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1984, namely:—

~~‘43E. Notwithstanding anything contained in sections 38 to 43D (both inclusive), until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the division of each Union territory into territorial constituencies and any reference to the “latest census figures” in this Part shall be construed as a reference to the 1971 census figures.~~

4. Anything done or any action taken on or after the 1st day of March, 1984 and before the commencement of this Act for the purposes of elections to the Legislative Assembly of the Union territory of Mizoram shall be deemed to be, and to have always been, as validly and effectively done or taken as if the provisions of the principal Act as amended by section 3 had been in force at all material times.

Insertion of new Section 43E.

Special provision as to readjustment of territorial constituencies.

Validation.

Rep. by Act
Rep. by

19. 5. 1988, S. 2 & Sch. I

THE OILFIELDS (REGULATION AND DEVELOPMENT)
AMENDMENT ACT, 1984

No. 20 OF 1984

[11th May, 1984.]

An Act further to amend the Oilfields (Regulation and Development) Act, 1948

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

Short title.

1. This Act may be called the Oilfields (Regulation and Development) Amendment Act, 1984.

Amend-
ment of
section 6A.

2. In section 6A of the Oilfields (Regulation and Development) Act, 1948 (hereinafter referred to as the principal Act), in clause (b) of the proviso to sub-section (4), for the words "four years", the words "three years" shall be substituted.

Substitu-
tion of
new
section
for
section 10.

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

Laying of
rules and
notifica-
tions.

"10. Every rule made under this Act and every notification issued under sub-section (4) of section 6A shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two 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 or issued, 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."

THE FINANCE ACT, 1984

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 10.
4. Amendment of section 11.
5. Amendment of section 33B.
6. Amendment of section 35.
7. Amendment of section 35C.
8. Amendment of section 36.
9. Amendment of section 40.
10. Amendment of section 40A.
11. Insertion of new section 44AB.
12. Amendment of section 80CC.
13. Omission of section 80D.
14. Amendment of section 80E.
15. Amendment of section 80L.
16. Amendment of section 80M.
17. Amendment of section 80N.
18. Amendment of section 80O.
19. Amendment of section 80U.
20. Amendment of section 161.
21. Amendment of section 164.
22. Amendment of section 193.
23. Amendment of section 194.
24. Amendment of section 252.
25. Amendment of section 269C.
26. Amendment of section 269F.

SECTIONS

27. Amendment of section 269P.
28. Insertion of new section 269SS.
29. Amendment of section 269T.
30. Insertion of new section 271B.
31. Insertion of new section 276DD.
32. Amendment of section 281A.
33. Consequential amendments to the Income-tax Act.

Wealth-tax

34. Amendment of Act 27 of 1957.

**CHAPTER IV
INDIRECT TAXES***Customs*

35. Amendment of Act 51 of 1975.
36. Auxiliary duties of customs.
37. Amendment of section 28.
38. Amendment of section 61.
39. Amendment of section 129.
40. Amendment of section 129A.
41. Amendment of section 129C.
42. Amendment of section 129D.
43. Insertion of new section 129DD.

Excise

44. Amendment of section 2.
45. Amendment of section 3.
46. Amendment of section 4.
47. Amendment of section 35B.
48. Amendment of section 35D.
49. Amendment of section 35E.
50. Insertion of new section 35EE.
51. Amendment of First Schedule.
52. Special duties of excise.
53. Amendment of Act 58 of 1957.

**CHAPTER V
MISCELLANEOUS**

54. Amendment of Act 52 of 1963.
55. Amendment of Act 45 of 1968.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

THE FOURTH SCHEDULE.

THE FIFTH SCHEDULE.

THE FINANCE ACT, 1984

No. 21 OF 1984

[11th May, 1984.]

An Act to give effect to the financial proposals of the Central Government for the financial year 1984-85.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 1984.

(2) Save as otherwise provided in this Act, sections 2 to 34 and section 54 shall be deemed to have come into force on the 1st day of April, 1984.

Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the Income-assessment year commencing on the 1st day of April, 1984, income-tax tax shall be charged at the rates specified in Part I of the First 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:

Provided that where an assessee, being a company, has made, during the financial year commencing on the 1st day of April, 1983, any deposit with the Industrial Development Bank of India established under the 18 of 1964. Industrial Development Bank of India Act, 1964 under the Companies Deposits (Surcharge on Income-tax) Scheme, 1983, then, the surcharge on income-tax payable by the company,—

(a) in a case where the amount of the deposit so made is equal to, or exceeds, one-half of the amount of surcharge on income-tax

payable by it, shall be reduced by one-half of the amount of surcharge payable by it; and

(b) in a case where the amount of the deposit so made falls short of one-half of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit.

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

(i) in a case to which the said Sub-Paragraph I applies, fifteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve 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,—

(i) in a case to which the said Sub-Paragraph I applies, the first fifteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, 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 in a case referred to in the said Sub-Paragraph II, for the purpose of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (ii) of the proviso below Sub-Paragraph II and the provisions relating to surcharge on income-tax in the said Sub-Paragraph II shall not apply;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of fifteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, 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 in a case referred to in the said Sub-Paragraph II, 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 the said Sub-Paragraph II and the provisions relating to surcharge on income-tax in the said Sub-Paragraph II 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 in a case referred to in the said Sub-Paragraph II, where the sum so arrived at exceeds sixty per cent. of the amount by which the total income exceeds twelve 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 twelve and a half per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

43 of 1961.

(3) In cases to which the provisions of Chapter XII or Chapter XIIA or section 164 or section 164A or section 167A 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.

(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 First 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 First Schedule:

Provided that in cases to which the provisions of Chapter XII or Chapter XIIA or sub-section (1A) of section 161 or section 164 or section

164A or section 167A 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:

Provided further that an assessee, being a company, may, in lieu of payment of the amount of surcharge on income-tax at the rate specified in Paragraph E of Part III of the First Schedule, make a deposit under the scheme framed under sub-section (7) before the last instalment of "advance tax" is due in its case, and where it does so, the surcharge on income-tax payable by the company,—

(i) in a case where the amount of the deposit so made is equal to or exceeds the amount of surcharge on income-tax payable by it, shall be *nil*; and

(ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit.

(6) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First 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 exceeding six hundred rupees, in addition to total income and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, fifteen thousand rupees; and

(ii) in a case to which the said Sub-Paragraph II applies, twelve 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,—

(i) in a case to which the said Sub-Paragraph I applies, the first fifteen thousand rupees; and

(ii) in a case to which the said Sub-Paragraph II applies, 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 in a case referred to in the said Sub-Paragraph II, 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 the said Sub-Paragraph II and the provisions relating to surcharge on income-tax in the said Sub-Paragraph II shall not apply;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of fifteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, 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 the said Sub-Paragraph I or, as the case may be, the said Sub-Paragraph II, as if the net agricultural income as so increased were the total income:

Provided that in a case referred to in the said Sub-Paragraph II, 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 the said Sub-Paragraph II and the provisions relating to surcharge on income-tax in the said Sub-Paragraph II 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 in a case referred to in the said Sub-Paragraph II, where the sum so arrived at exceeds sixty per cent. of the amount by which the total income exceeds twelve 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 twelve and a half 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) Where an assessee, being a company, makes, during the financial year commencing on the 1st day of April, 1984, any deposit with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 under any such scheme as the Central Government may, by notification in the Official Gazette, frame

in this behalf, then the surcharge on income-tax payable by the company for the assessment year commencing on the 1st day of April, 1985,—

(i) in a case where the amount of the deposit so made is equal to or exceeds the amount of surcharge on income-tax payable by it, shall be nil; and

(ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit.

(8) For the purposes of this section and the First 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, 1984, 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 carriage, by road or inland waterways, of passengers or goods or in the construction of ships or in the execution of projects or in the manufacture or processing of goods or in mining.

*Explanation.—*For the purposes of this clause,—

(i) 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 carriage, by road or inland waterways, of passengers or goods or in the construction of ships or in the execution of projects 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;

(ii) "project" means a project for the construction of a building, road, dam, bridge or other structure or assembly or installation of any machinery or plant;

(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 First 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 whereon is payable by the State Government;

(g) all other words and expressions used in this section or in the First 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

3. In section 10 of the Income-tax Act, in clause (30), after the words "tea bushes", the words "or for rejuvenation or consolidation of areas used for cultivation of tea" shall be inserted with effect from the 1st day of April, 1985. Amendment of section 10.

4. In section 11 of the Income-tax Act, in sub-section (5), after clause (x) and the *Explanation* thereto, the following clause shall be inserted with effect from the 1st day of April, 1985, namely:— Amendment of section 11.

18 of 1964.

"(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964.".

5. In section 33B of the Income-tax Act, before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 1985, namely:— Amendment of section 33B.

"Provided that no deduction under this section shall be allowed in relation to the assessment year commencing on the 1st day of April, 1985 or any subsequent assessment year."

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

(a) in sub-section (2), in clause (ia),—

(i) before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that no deduction shall be admissible under this clause in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after the 29th day of February, 1984";

(ii) the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—For the purposes of this clause,—

(a) "land" includes any interest in land; and

(b) the acquisition of any land shall be deemed to have been made by the assessee on the date on which the instrument of transfer of such land to him has been registered under the Registration Act, 1908, or where he has taken or retained the possession of such land or any part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882, the date on which he has so taken or retained possession of such land or part;

(b) in sub-section (2A), for the words "Where the assessee pays an assessee has incurred any expenditure", the words, figures and letters "Where, before the 1st day of March, 1984, the assessee pays any sum" shall be substituted;

(c) in sub-section (2B), in clause (a), for the words "Where an assessee has incurred any expenditure", the words, figures and letters "Where, before the 1st day of March, 1984, an assessee has incurred any expenditure" shall be substituted.

7. In section 35C of the Income-tax Act, in sub-section (1), in clause (a), after the words, figures and letters "after the 29th day of February, 1968", the words, figures and letters "but before the 1st day of March, 1984" shall be inserted.

8. In section 36 of the Income-tax Act, in sub-section (1), in clause (iiia), after the words "payment of any salary", the words, figures and letters "for any period of employment before the 1st day of March, 1984" shall be inserted.

9. In section 40 of the Income-tax Act, in clause (c), with effect from the 1st day of April, 1985,—

(a) in sub-clause (A), for the words "seventy-two thousand rupees", the words "one hundred and two thousand rupees" shall be substituted;

(b) in sub-clause (B), for the words "six thousand rupees", the words "eight thousand five hundred rupees" shall be substituted.

10. In section 40A of the Income-tax Act,—

(a) in sub-section (5), with effect from the 1st day of April, 1985,—

(1) in clause (a), in the first proviso, for the words "seventy-two thousand rupees", the words "one hundred and two thousand rupees" shall be substituted;

(2) in clause (c), in sub-clause (i),—

(i) for the words "five thousand rupees", the words "seven thousand five hundred rupees" shall be substituted;

(ii) for the words "sixty thousand rupees", the words "ninety thousand rupees" shall be substituted;

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

Provided further that in relation to any month or part thereof comprised in any such previous year as is

relevant to the assessment year commencing on the 1st day of April, 1985, or any subsequent assessment year, the reference to "five thousand rupees" in the preceding proviso shall be construed as a reference to "seven thousand five hundred rupees";

(b) in sub-section (6), for the words "sixty thousand rupees", the words "ninety thousand rupees" shall be substituted with effect from the 1st day of April, 1985;

(c) after sub-section (8), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1980, namely:—

1860.

"(9) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 or other institution, for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (iv) or clause (v) of sub-section (1) of section 36 or, as required by or under any other law for the time being in force.

(10) Notwithstanding anything contained in sub-section (9), where the Income-tax Officer is satisfied that the fund, trust, company, association of persons, body of individuals, society or other institution referred to in that sub-section has, before the 1st day of March, 1984, bona fide laid out or expended any expenditure (not being in the nature of capital expenditure) wholly and exclusively for the welfare of the employees of the assessee referred to in sub-section (9) out of the sum referred to in that sub-section, the amount of such expenditure shall, in case no deduction has been allowed to the assessee in respect of such sum and subject to the other provisions of this Act, be deducted in computing the income referred to in section 28 of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended by the assessee.

(11) Where the assessee has, before the 1st day of March, 1984, paid any sum to any fund, trust, company, association of persons, body of individuals, society or other institution referred to in sub-section (9), then, notwithstanding anything contained in any other law or in any instrument, he shall be entitled—

(i) to claim that so much of the amount paid by him as has not been laid out or expended by such fund, trust, company, association of persons, body of individuals, society or other institution (such amount being hereinafter referred to as the unutilised amount) be repaid to him, and where any claim is so made, the unutilised amount shall be repaid, as soon as may be, to him;

(ii) to claim that any asset, being land, building, machinery, plant or furniture acquired or constructed by the fund, trust, company, association of persons, body of individuals, society or other institution out of the sum paid by

the assessee, be transferred to him, and where any claim is so made, such asset shall be transferred, as soon as may be, to him".

**Insertion
of new
section
44AB.**

**Audit of
accounts
of certain
persons
carrying
on
business
or pro-
fession.**

11. After section 44AA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1985, namely:—

'44AB. Every person,—

(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds forty lakh rupees in any previous year or years relevant to the assessment year commencing on the 1st day of April, 1985 or any subsequent assessment year; or

(b) carrying on profession shall, if his gross receipts in profession exceed ten lakh rupees in any previous year or years relevant to the assessment year commencing on the 1st day of April, 1985 or any subsequent assessment year,

get his accounts of such previous year or years audited by an accountant before the specified date and obtain before that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:

Provided that in a case where such person is required by or under any other law to get his accounts audited by an accountant, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and obtains before that date the report of the audit as required under such other law and a further report in the form prescribed under this section.

Explanation.—For the purposes of this section,—

(i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;

(ii) "specified date", in relation to the accounts of the previous year or years relevant to an assessment year, means the date of the expiry of four months from the end of the previous year or, where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or the 30th day of June of the assessment year, whichever is later."

**Amend-
ment of
section
80CC.**

12. In section 80CC of the Income-tax Act, in sub-section (3), for clause (c), the following clause shall be substituted, namely:—

"(c) the shares forming part of the issue are offered for subscription to the public and such offer for subscription is made by the company before the 1st day of April, 1987;".

**Omission
of section
80D.**

13. Section 80D of the Income-tax Act shall be omitted with effect from the 1st day of April, 1985.

14. In section 80E of the Income-tax Act, in sub-section (1), after the words "he has paid", the words, figures and letters ", before the 1st day of March, 1984," shall be inserted.

Amend-
ment of
section
80E.

15. In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1985,—

Amend-
ment of
section
80L.

(a) after clause (ii), the following clause shall be inserted, namely:—

"(iia) interest on deposits under such National Deposit Scheme as may be framed by the Central Government and notified by it in this behalf in the Official Gazette";

(b) in clause (iii), for the words "under any scheme", the words "under any other scheme" shall be substituted;

(c) the following provisos shall be inserted at the end, namely:—

"Provided that where the gross total income of the assessee includes any income by way of interest on any deposits referred to in clause (iia) or income in respect of units referred to in clause (v), there shall be allowed in computing the total income of the assessee a further deduction of an amount equal to so much of such income as has not been allowed by way of deduction under the foregoing provisions of this sub-section; so, however, that the amount of such further deduction shall not exceed three thousand rupees:

Provided further that where any income by way of interest on any deposits referred to in clause (iia) remains unallowed after the deduction under the foregoing provisions of this section, there shall be allowed in computing the total income of the assessee, an additional deduction of an amount equal to so much of such income as has remained unallowed; so, however, that the amount of such additional deduction shall not exceed two thousand rupees."

16. In section 80M of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1985,—

Amend-
ment of
section
80M.

(a) for the words "an amount equal to—", the words "an amount equal to sixty per cent. of such income." shall be substituted;

(b) clauses (a) and (b) shall be omitted.

17. In section 80N of the Income-tax Act, for the words "a deduction of the whole of the income", the words "a deduction of an amount equal to fifty per cent. of the income" shall be substituted with effect from the 1st day of April, 1985.

Amend-
ment of
section
80N.

18. In section 80O of the Income-tax Act, for the words "a deduction of the whole of the income", the words "a deduction of an amount equal to fifty per cent. of the income" shall be substituted with effect from the 1st day of April, 1985.

Amend-
ment of
section
80O.

19. Section 80U of the Income-tax Act shall be numbered as sub-section (1) with effect from the 1st day of April, 1985, and,—

Amend-
ment of
section
80U.

(a) in sub-section (1) as so numbered, in clause (ii), after the words and brackets "a permanent physical disability (other than blindness)", the words "being a permanent physical disability specified in the rules made in this behalf by the Board, and" shall be inserted with effect from the 1st day of April, 1985;

(b) after sub-section (1) as so numbered, the following sub-section shall be inserted with effect from the 1st day of April, 1985, namely:—

"(2) The Board shall, in making any rules for specifying any disability for the purposes of clause (ii) of sub-section (1), have regard to the nature of such disability and the effect which such disability is likely to have on the capacity of a person subject thereto, or suffering therefrom, to engage in a gainful employment or occupation."

Amend.
ment of
section
161.

20. In section 161 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of April, 1985, namely:—

'(1A) Notwithstanding anything contained in sub-section (1), where any income in respect of which the person mentioned in clause (iv) of sub-section (1) of section 160 is liable as representative assessee consists of, or includes, profits and gains of business, tax shall be charged on the whole of the income in respect of which such person is so liable at the maximum marginal rate:

Provided that the provisions of this sub-section shall not apply where such profits and gains are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.

Explanation.—For the purposes of this sub-section, "maximum marginal rate" shall have the meaning assigned to it in *Explanation 2* below sub-section (3) of section 164'.

Amend.
ment of
of section
164.

21. In section 164 of the Income-tax Act, with effect from the 1st day of April, 1985,—

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

"Provided further that where any income in respect of which the person mentioned in clause (iv) of sub-section (1) of section 160 is liable as representative assessee consists of, or includes, profits and gains of business, the preceding proviso shall apply only if such profits and gains are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.";

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

"Provided that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (c) or clause (d) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate.";

(c) in sub-section (3), after the proviso and before *Explanation I.*, the following provisos shall be inserted, namely:—

"Provided further that where the relevant income consists of, or includes, profits and gains of business, the preceding proviso shall apply only if the income is receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him:

Provided also that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (c) or clause (d) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate.".

22. In section 193 of the Income-tax Act, in the proviso, after clause (iv), the following clause shall be inserted with effect from the 1st day of June, 1984, namely:—

Amend-
ment of
section
193.

42 of 1936.

"(v) any interest payable to an individual, who is resident in India, on debentures issued by a company in which the public are substantially interested, being debentures listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956, and any rules made thereunder, if—

(a) the interest is paid by the company by an account payee cheque; and

(b) the amount of such interest or, as the case may be, the aggregate of the amounts of such interest paid or likely to be paid during the financial year by the company to such individual does not exceed one thousand rupees."

23. In section 194 of the Income-tax Act, for the first proviso, the following proviso shall be substituted with effect from the 1st day of June, 1984, namely:—

Amend-
ment of
section
194.

"Provided that no such deduction shall be made in the case of a shareholder, being an individual, who is resident in India, of a company in which the public are substantially interested, if—

(a) the dividend is paid by such company by an account payee cheque; and

(b) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder does not exceed one thousand rupees:".

Amend-
ment of
section
252.

24. In section 252 of the Income-tax Act,—

(a) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) The Central Government may appoint one of the Vice-Presidents of the Appellate Tribunal to be the Senior Vice-President thereof.”;

(b) in sub-section (5), for the words “A Vice-President”, the words “The Senior Vice-President or a Vice-President” shall be substituted.

Amend-
ment of
section
269C.

25. In section 269C of the Income-tax Act, in sub-section (1), for the words “twenty-five thousand rupees”, the words “one hundred thousand rupees” shall be substituted with effect from the 1st day of June, 1984.

Amend-
ment of
section
269F.

26. In section 269F of the Income-tax Act, in sub-section (6), in clause (a), for the words “twenty-five thousand rupees”, the words “one hundred thousand rupees” shall be substituted with effect from the 1st day of June, 1984.

Amend-
ment of
section
269P.

27. In section 269P of the Income-tax Act, in sub-section (1), in the proviso, for the words “ten thousand rupees”, the words “fifty thousand rupees” shall be substituted with effect from the 1st day of June, 1984.

Insertion
of new
section
269SS.

28. In Chapter XXB of the Income-tax Act,—

(a) in the heading, for the words “MODE OF REPAYMENT”, the words “MODE OF ACCEPTANCE, PAYMENT OR REPAYMENT” shall be substituted;

(b) before section 269T, the following section shall be inserted, namely:—

Mode of
taking or
accepting
certain
loans
and
deposits.

269SS. No person shall, after the 30th day of June, 1984, take or accept from any other person (hereafter in this section referred to as the depositor) any loan or deposit otherwise than by an account payee cheque or account payee bank draft if,—

(a) the amount of such loan or deposit or the aggregate amount of such loan and deposit; or

(b) on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is ten thousand rupees or more;

Provided that the provisions of this section shall not apply to any loan or deposit taken or accepted from, or any loan or deposit taken or accepted by,—

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in section 617 of the Companies Act, 1956;

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.

Explanation.—For the purposes of this section,—

(i) "banking company" shall have the meaning assigned to it in clause (a) of the *Explanation* to sub-section (5) of section 40A;

(ii) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949;

(iii) "loan or deposit" means loan or deposit of money.

29. In section 269T of the Income-tax Act, in the *Explanation*, after clause (i), the following clause shall be inserted, namely:—

19 of 1989. (ii) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949.

30. In the Income-tax Act, after section 271A, the following section shall be inserted with effect from the 1st day of April, 1985, namely:—

"271B. If any person fails, without reasonable cause, to get his accounts audited in respect of any previous year or years relevant to an assessment year or obtain a report of such audit as required under section 44AB, the Income-tax Officer may direct that such person shall pay, by way of penalty, a sum equal to one-half per cent. of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such previous year or years or a sum of one hundred thousand rupees, whichever is less."

31. In the Income-tax Act, after section 276D, the following section shall be inserted, namely:—

Amendment of section 269T.

Insertion of new section 271B.

Failure to get accounts audited.

Insertion of new section 276DD.

**Failure
to
comply
with the
provisions
or section
269SS.**

**Amend-
ment of
section
281A.**

"276DD. If a person, without reasonable cause or excuse, takes or accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine equal to the amount of such loan or deposit.".

32. In section 281A of the Income-tax Act,—

(a) in sub-section (1), for the portion beginning with the words "the real owner of such property unless,—" and ending with the words "to the Income-tax Officer", the following shall be substituted, namely:—

"the real owner of such property unless notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant within a period of one year from the date of acquisition of the property to the Commissioner";

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

"(1A) Where any such property is acquired by the claimant before the 1st day of March, 1984, the provisions of sub-section (1) shall be deemed to have been fulfilled if notice in the prescribed form and containing the prescribed particulars in respect of the property is given by the claimant, within a period of one year from the said date, to the Commissioner."

(1B) Notwithstanding anything contained in sub-section (1) or sub-section (1A), in relation to any suit relating to any immovable property of a value not exceeding fifty thousand rupees, the provisions of sub-section (1) or, as the case may be, sub-section (1A), shall be deemed to have been fulfilled if, at any time before the suit, notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Commissioner.";

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

"(2) The Commissioner shall, on an application made in the prescribed manner, by the claimant or any person acting on his behalf or claiming under him, and on payment of the prescribed fees, issue, for the purposes of a suit referred to in sub-section (1), a certified copy of any notice given by the claimant under sub-section (1) or sub-section (1A) or sub-section (1B), within fourteen days from the date of receipt of the application.".

**Conse-
quential
amend-
ments
to the
Income-
tax Act.**

33. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act with effect from the 1st day of April, 1985, namely:—

(a) in section 246, in sub-section (2), after clause (g), the following clause shall be inserted, namely:—

"(gg) an order imposing a penalty under section 271B;"

(b) in the Ninth Schedule, for the brackets, words, figures and letters "[See section 32(1) (vi) and section 80M(1) (a) (i)]", the brackets, words and figures "[See section 32(1) (vi)]" shall be substituted.

Wealth-tax

34. In the Wealth-tax Act, 1957, with effect from the 1st day of April, 1985.—

Amend-
ment of
Act 27 of
1957.

(a) in section 5,—

(i) in sub-section (1),—

(1) in clause (iv), in the proviso, for the words "one hundred thousand rupees", at both the places where they occur, the words "two hundred thousand rupees" shall be substituted;

(2) after clause (xxv), the following clause shall be inserted, namely:—

"(xxva) any deposits under such National Deposit Scheme as may be framed by the Central Government and notified by it in this behalf in the Official Gazette;"

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

"(xxviii) any deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;"

(ii) in sub-section (1A),—

(1) for the brackets and figures "(xxvi), (xxvii)", the brackets, figures and letters "(xxva), (xxvi), (xxvii), (xxviii)," shall be substituted;

(2) for the words "one hundred and sixty-five thousand rupees", at both the places where they occur, the words "two hundred and sixty-five thousand rupees" shall be substituted;

(3) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that where the assets of the assessee include any assets, being units referred to in clause (xxv) or any deposits referred to in clause (xxva), wealth-tax shall not be payable by the assessee in respect of, and there shall not be included in the net wealth of the assessee, so much of the value of such assets as has not been excluded from the net wealth of the assessee under this sub-section; so, however, that the value of the assets excluded under this proviso shall not exceed thirty-five thousand rupees:

Provided also that where the value of any assets, being deposits referred to in clause (xxvii), has not been excluded from the net wealth of the assessee under the foregoing provisions of this sub-section, so much of the value of such assets as has not been so excluded shall be excluded from the net wealth of the assessee; so, however, that the value of the assets so excluded under this proviso shall not exceed twenty-five thousand rupees.”;

(iii) in sub-section (3), for the brackets and figures “(xxvi), (xxvii),”, the brackets, figures and letters “(xxvii), (xxvi), (xxvii), (xxviiia),” shall be substituted;

(b) in section 21A,—

(1) for the portion beginning with the brackets, figure and words “(i) any part of such property” and ending with the words “beneficial to the revenue:”, the following shall be substituted, namely:—

“(i) any part of such property or any income of such trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act] is used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, or

(ii) any part of the income of the trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act], being a trust created on or after the 1st day of April, 1962, enures, directly or indirectly, for the benefit of any person referred to in sub-section (3) of section 13 of the said Act, or

(iii) any funds of the trust are invested or deposited, or any shares in a company are held by the trust, in contravention of the provisions of clause (d) of sub-section (1) of section 13 of the Income-tax Act,

wealth-tax shall be leviable upon, and recoverable from, the trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act, but without excluding the value of any asset under sub-section (1) of section 5, and at the maximum marginal rate.”;

(2) after the second proviso, the following proviso shall be inserted, namely:—

‘Provided also that,—

(a) in the case of any association referred to in clause (21) of section 10 of the Income-tax Act,—

(i) the provisions of clause (i) and clause (ii) shall not apply; and

(ii) the other provisions of this section shall apply with the modifications that,—

- (1) for the words, brackets, letter and figures "in contravention of the provisions of clause (d) of sub-section (1) of section 13 of the Income-tax Act", the words, brackets and figures "in contravention of the provisions contained in the proviso to clause (21) of section 10 of the Income-tax Act" had been substituted; and
- (2) for the words "at the maximum marginal rate", the words and figures "at the rates specified in Part I of Schedule I in the case of an individual" had been substituted;
- (b) in the case of any institution, fund or trust referred to in clause (22) or clause (22A) or clause (23B) or clause (23C) of section 10 of the Income-tax Act, the provisions of clauses (i) to (iii) shall not apply;—
- (3) in the *Explanation*, after clause (a), the following clause shall be inserted, namely:—

'(aa) "maximum marginal rate" means the rate of wealth-tax applicable in relation to the highest slab of wealth in the case of an individual as specified in Part I of Schedule I;'

CHAPTER IV

INDIRECT TAXES

Customs

35. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), shall be amended in the manner specified in the Second Schedule.

Amend-
ment of
Act 81 of
1975.

2 at 1982.

19 at 1987.

36. (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 fifty 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).

Auxiliary
duties of
customs.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1985, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The 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 collec-

tion of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Amend-
ment of
section 28.

37. In section 28 of the Customs Act, in sub-section (1), after the proviso, the following *Explanation* shall be inserted, namely:—

"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 one year or six months or five years, as the case may be."

Amend-
ment of
section 61.

38. In section 61 of the Customs Act, to sub-section (2), the following proviso shall be added, namely:—

"Provided that the Board may, if it considers it necessary so to do in the public interest, waive, by special order and under circumstances of an exceptional nature to be specified in such order, the whole or part of any interest payable under this sub-section in respect of any warehoused goods."

Amend-
ment of
section
129.

39. In section 129 of the Customs Act,—

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

"(2) A judicial member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the Central Legal Service and has held a post in Grade I of that service or any equivalent or higher post for at least three years, or who has been an advocate for at least ten years.

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

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

(ii) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held a judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.

(2A) A technical member shall be a person who has been a member of the Indian Customs and Central Excise Service, Group A, and has held the post of Collector of Customs or Central Excise or any equivalent or higher post for at least three years.";

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The Central Government may appoint one of the Vice-Presidents of the Appellate Tribunal to be the Senior Vice-President thereof.";

(c) in sub-section (5), for the words "The Vice-President", the words "The Senior Vice-President or a Vice-President" shall be substituted.

40. In section 129A of the Customs Act,—

(a) in sub-section (1), in the proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to,—

(a) any goods imported or exported as baggage;

(b) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;

(c) payment of drawback as provided in Chapter X, and the rules made thereunder:

Provided further that";

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

"(1A) Every appeal against any order of the nature referred to in the first proviso to sub-section (1), which is pending immediately before the commencement of section 40 of the Finance Act, 1984, before the Appellate Tribunal and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on such commencement to the Central Government and the Central Government shall deal with such appeal or matter under section 129DD as if such appeal or matter were an application or a matter arising out of an application made to it under that section."

41. In section 129C of the Customs Act, in sub-section (4), for the words "ten thousand rupees", the words "fifty thousand rupees" shall be substituted.

42. In section 129D of the Customs Act, in sub-section (3), for the words "two years", the words "one year" shall be substituted.

43. After section 129D of the Customs Act, the following section shall be inserted, namely:—

129DD. (1) The Central Government may, on the application of any person aggrieved by any order passed under section 128A, where the order is of the nature referred to in the first proviso to sub-section (1) of section 129A, annul or modify such order.

Amend-
ment of
section
129A.

Amend-
ment of
section
129C.

Amend-
ment of
section
129D.

Insertion
of new
section
129DD.
Revision
by
Central
Govern-
ment.

Explanation.—For the purposes of this sub-section, “order passed under section 128A” includes an order passed under that section before the commencement of section 40 of the Finance Act, 1984, against which an appeal has not been preferred before such commencement and could have been, if the said section had not come into force, preferred after such commencement, to the Appellate Tribunal.

(2) An application under sub-section (1) shall be made within three months from the date of the communication to the applicant of the order against which the application is being made:

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months.

(3) An application under sub-section (1) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of two hundred rupees.

(4) The Central Government may, of its own motion, annul or modify any order referred to in sub-section (1).

(5) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section,—

(a) in any case in which an order passed under section 128A has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value; and

(b) in any other case, unless the person affected by the proposed order has been given notice to show cause against it within one year from the date of the order sought to be annulled or modified.

(6) Where the Central Government is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section unless the person affected by the proposed order is given notice to show cause against it within the time limit specified in section 28.

Excise

Amend-
ment
of
section 2.

44. In section 2 of the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), in clause (f), after sub-clause (viii), the following sub-clause shall be inserted, namely:—

“(ix) in relation to artificial or synthetic resins and plastic materials, includes their conversion into moulding powders.”

Amend-
ment
of
section 3.
Table
revised
from
1944

45. In section 3 of the Central Excises Act, in sub-section (1), in the proviso,—

(a) for the words “excisable goods which are produced or manufactured in a free trade zone and brought to any other place

in India shall be an amount equal to", the following shall be substituted, namely:—

"excisable goods which are produced or manufactured.—

(i) in a free trade zone and brought to any other place in India; or

(ii) by a hundred per cent. export-oriented undertaking and allowed to be sold in India,

shall be an amount equal to";

(b) for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

'Explanation 2.—In this proviso,—

(i) "free trade zone" means the Kandla Free Trade Zone and the Santa Cruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(ii) "hundred per cent. export-oriented undertaking" means an undertaking which has been approved as a hundred per cent. export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1961, and the rules made under that Act'.

63 of 1951.

51 of 1975.

46. In sub-section (4) of section 4 of the Central Excises Act, in sub-clause (ii) of clause (d), in the *Explanation*, in clause (i), for the words "or reduction of duty of excise on such goods equal to, any duty of excise already paid", the words and figures "or reduction of duty of excise under such Act on such goods equal to, any duty of excise under such Act, or the additional duty under section 3 of the Customs Tariff Act, 1975, already paid" shall be substituted.

Amend-
ment of
section 4

47. In section 35B of the Central Excises Act,—

(a) in sub-section (1), in the proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to,—

(a) a case of loss of goods, where the loss occurs in transit from a factory to a warehouse or to another factory, or from one warehouse to another, or during the course of processing of the goods in a warehouse or in storage, whether in a factory or in a warehouse;

(b) a rebate of duty of excise on goods exported to any country or territory outside India or on excisable materials used in the manufacture of goods which are expected to any country or territory outside India;

Amend-
ment of
section
35B

(c) goods exported outside India (except to Nepal or Bhutan) without payment of duty:

Provided further that;

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

(1A) Every appeal against any order of the nature referred to in the first proviso to sub-section (1), which is pending immediately before the commencement of section 47 of the Finance Act, 1984, before the Appellate Tribunal and any matter arising out of, or connected with, such appeal and which is so pending shall stand transferred on such commencement to the Central Government, and the Central Government shall deal with such appeal or matter under section 35EE as if such appeal or matter were an application or a matter arising out of an application made to it under that section.”

48. In section 35D of the Central Excises Act, in sub-section (3), for the words “ten thousand rupees”, the words “fifty thousand rupees” shall be substituted.

49. In section 35E of the Central Excises Act, in sub-section (3), for the words “two years”, the words “one year” shall be substituted.

50. After section 35E of the Central Excises Act, the following section shall be inserted, namely:—

35EE. (1) The Central Government may, on the application of any person aggrieved by any order passed under section 35A, where the order is of the nature referred to in the first proviso to sub-section (1) of section 35B, annul or modify such order.

*Explanation.—*For the purposes of this sub-section, “order passed under section 35A” includes an order passed under that section before the commencement of section 47 of the Finance Act, 1984 against which an appeal has not been preferred before such commencement and could have been, if the said section had not come into force, preferred after such commencement, to the Appellate Tribunal.

(2) An application under sub-section (1) shall be made within three months from the date of the communication to the applicant of the order against which the application is being made:

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months.

(3) An application under sub-section (1) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of two hundred rupees.

(4) The Central Government may, of its own motion, annul or modify any order referred to in sub-section (1).

Amendment of section 35D.

Amendment of section 35E.

Insertion of new section 35EE.

Revision by Central Government.

(5) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section,—

(a) in any case in which an order passed under section 35A has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value, and

(b) in any other case, unless the person affected by the proposed order has been given notice to show cause against it within one year from the date of the order sought to be annulled or modified.

(6) Where the Central Government is of opinion that any duty of excise 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 11A.'

51. The First Schedule to the Central Excises Act,—

(a) shall be amended in the manner specified in the Third Schedule; and

(b) shall, with effect from such¹ date as the Central Government may, by notification in the Official Gazette, appoint, be also amended in the manner specified in the Fourth Schedule.

Amend-
ment of
First
Schedule.

Special
duties of
excise.

52: (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 (not being a notification providing for any exemption for giving credit with respect to, or reduction of duty of excise under the said Act on such goods equal to, any duty of excise under the said Act, or the additional duty under section 3 of the Customs Tariff Act, already paid on the raw material or component parts used in the production or manufacture of such goods), there shall be levied and collected a special duty of excise equal to ten 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, 1985, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The 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.

53. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Fifth Schedule.

Amend-
ment of
Act 58 of
1957.

¹ 1st August, 1984, vide Notification No. G.S.R. 507 (E), dated 11-7-1984, Gazette of India, Part II, Section 3 (i).

CHAPTER V MISCELLANEOUS

Amend-
ment of
Act 52 of
1963.

Amend-
ment of
Act 45 of
1968.

54. In the Unit Trust of India Act, 1963, in sub-section (1) of section 32, with effect from the 1st day of April, 1985,—
- (a) clause (b) and clause (ba) shall be omitted;
 - (b) in *Explanation I*,—
 - (i) in clause (a), for the words, brackets and letters "clauses (aa) and (b)", the word, brackets and letters "clause (aa)" shall be substituted;
 - (ii) in clause (b), for the words, brackets and letters "clauses (ba) and (bb)", the word, brackets and letters "clause (bb)" shall be substituted.
55. In the Gold (Control) Act, 1968,—
- (a) in sub-section (2) of section 81B, for the words "ten thousand rupees", the words "fifty thousand rupees" shall be substituted;
 - (b) in sub-section (3) of section 82, for the words "two years", the words "one year" shall be substituted.

THE FIRST 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. 15,000	Nil;
(2) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	25 per cent. of the amount by which the total income exceeds Rs. 15,000;
(3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 1,250 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
(4) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 2,750 plus 35 per cent. of the amount by which the total income exceeds Rs. 25,000;
(5) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 4,500 plus 40 per cent. of the amount by which the total income exceeds Rs. 30,000;
(6) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	Rs. 12,500 plus 50 per cent. of the amount by which the total income exceeds Rs. 50,000;
(7) where the total income exceeds Rs. 60,000 but does not exceed Rs. 70,000	Rs. 17,500 plus 52.5 per cent. of the amount by which the total income exceeds Rs. 60,000;
(8) where the total income exceeds Rs. 70,000 but does not exceed Rs. 85,000	Rs. 22,750 plus 55 per cent. of the amount by which the total income exceeds Rs. 70,000;
(9) where the total income exceeds Rs. 85,000 but does not exceed Rs. 1,00,000	Rs. 31,000 plus 57.5 per cent. of the amount by which the total income exceeds Rs. 85,000;

(10) where the total income exceeds
Rs. 1,00,000

Rs. 39,625 plus 60 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 twelve and a half 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, 1984 exceeds Rs. 15,000,—

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	22 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. 1,540 plus 27 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. 2,890 plus 35 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. 4,640 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. 6,640 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.	Rs. 16,640 plus 60 per cent. of the amount by which the total income exceeds Rs. 50,000;

Provided that for the purposes of this Sub-Paragraph,—

- (i) no income-tax shall be payable on a total income not exceeding Rs. 12,000;
- (ii) where the total income exceeds Rs. 12,000 but does not exceed Rs. 17,610, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs. 12,000.

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 twelve and a half 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 twelve and a half 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 twelve and a half 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 twelve and a half 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 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 twelve and a half 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 | 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 | 60 per cent of the total income |
| (ii) in any other case | 65 per cent of the total income |

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 Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1978, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or 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 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
I. 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.	3.75 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.	3.75 per cent.;
(iv) on income by way of insurance commission	10 per cent.	Nil;
(v) on income by way of interest payable on	10 per cent.	Nil;
(A) any security, other than a tax-free security, of the Central or a State Government;		
(B) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;		
(C) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956, and any rules made thereunder		
(vi) on any other income (excluding interest payable on a tax-free security)	30 per cent.	3.75 per cent.

	Income-tax	
	Rate of income-tax	Rate of surcharge
(b) where the person is not resident in India		
(i) in the case of a non-resident Indian—		
(A) on investment income and long-term capital gains	20 per cent.	2.5 per cent.
(B) on income by way of interest payable on a tax free security.	15 per cent.	1.875 per cent.;
(C) on the whole of the other income		income tax at 30 per cent and surcharge at 3.75 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) in the case of any other person—		
(A) on the whole of the income (excluding interest payable on a tax-free security)		income tax at 30 per cent, and surcharge at 3.75 per cent, of the amount of 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 the Part III of this Schedule, if such income had been the initial income,
		whichever is higher ;
(B) on income by way of interest payable on a tax-free security	15 per cent.	1.875 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);	21.5 per cent.	1.075 per cent.
(b) where the company is not a domestic company—		
(i) on income by way of dividends payable by any domestic company—	25 per cent.	<i>Nil</i> ;
(ii) on income by way of interest payable by Government on an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	25 per cent.	<i>Nil</i> ;
(iii) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or 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.	<i>Nil</i> ;

Income-tax	Rate of income-tax	Rate of surcharge
(iv) on income by way of royalty not being royalty of the nature referred to in sub-item (b)(iii) payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or 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 to any patent, invention, model, design, secret formula or process, or trade mark or similar property	20 per cent.	Nil;
(2) on the balance, if any, of such income	40 per cent	Nil;
(v) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or 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;
(vi) on income by way of interest payable on a taxfree security	44 per cent	2·5 per cent.
(vii) on any other income	70 per cent	3·5 per cent.

Explanation.—For the purposes of this Part, “investment income”, “long-term capital gains” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

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 Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167A 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. 15,000	Nil;
(2) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	20 per cent. of the amount by which the total income exceeds Rs. 15,000;
(3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 1,000 plus 25 per cent. of the amount by which the total income exceeds Rs. 20,000;
(4) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 2,250 plus 30 per cent. of the amount by which the total income exceeds Rs. 25,000;
(5) where the total income exceeds Rs. 30,000 but does not exceed Rs. 40,000	Rs. 3,750 plus 35 per cent. of the amount by which the total income exceeds Rs. 30,000;
(6) where the total income exceeds Rs. 40,000 but does not exceed Rs. 50,000	Rs. 7,250 plus 40 per cent. of the amount by which the total income exceeds Rs. 40,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 11,250 plus 45 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. 20,250 plus 50 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. 35,250 plus 55 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 twelve and a half 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, 1985 exceeds Rs. 15,000,—

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000;	kgcfi 11 ffiA1(aa
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000;	22 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. 1,540 plus 27 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. 2,890 plus 35 per cent. of the amounts 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. 4,640 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. 6,640 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;	Rs. 16,640 plus 60 per cent. of the amount by which the total income exceeds Rs. 50,000;

Provided that for the purposes of this Sub-Paragraph,—

- (i) no income-tax shall be payable on a total income not exceeding Rs. 12,000;
- (ii) where the total income exceeds Rs. 12,000 but does not exceed Rs. 17,610, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs. 12,000.

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 twelve and a half 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 by 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 twelve and a half 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 twelve and a half 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 twelve and a half 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 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 twelve and a half 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 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 60 per cent. of the total income;

(ii) in any other case 65 per cent. of the total income.

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 Government or an Indian concern in pursuance of an agreement made by it which the Government or the Indian concern afeer the 31st day of March 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or 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

(ii) on the balance, if any, 70 per cent. of the total income

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(8) (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 chargeable to tax under the Income-tax Act 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, 1984, 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, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983, 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, 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 or the 1st day of April, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983,

(ii) 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 or the 1st day of April, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, 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, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1979, 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, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1980, 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, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1981, 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, 1982 or the 1st day of April, 1983,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1982, 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, 1983, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983,

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, 1984.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1985 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, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984, 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, 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 or the 1st day of April, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, 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, 1979 or the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1979, 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, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1980, 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, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1981, 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, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1982, 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, 1983 or the 1st day of April, 1984,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, 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, 1984, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984,

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, 1985 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, 1976, or of the First Schedule to the Finance (No. 2) Act, 1977, or of the Schedule to the Finance Act, 1978, or of the First Schedule to the Finance Act, 1979, or of the First Schedule to the Finance (No. 2) Act, 1980, or of the First Schedule to the Finance Act, 1981, or of the First Schedule to the Finance Act, 1982, or of the First Schedule to the Finance Act, 1983, shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

66 of 1976.
29 of 1977.
19 of 1978.
21 of 1979.
44 of 1980.
16 of 1981.
14 of 1982.
11 of 1983.

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 SECOND SCHEDULE

(See section 35)

PART I

In the First Schedule to the Customs Tariff Act,—

- (i) in Heading No. 26.02/04, for the entry in column (3), the entry "100%" shall be substituted;
- (ii) in sub-heading No. (1) of Heading No. 27.10, for the entry in column (3), the entry "100%" shall be substituted;
- (iii) in Heading No. 27.12/13, for the entry in column (3), the entry "100%" shall be substituted;
- (iv) in sub-heading No. (2) of Heading No. 53.01/05, for the entry in column (3), the entry "100% plus Rs. 10 per kilogram" shall be substituted;
- (v) in Heading No. 98.01/02, for the entry in column (3), the entry "200%" shall be substituted.

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 Customs Tariff Act, for Heading No. 92.01/13, the following Heading shall be substituted, namely:—

"92.01/13 Musical instruments; instruments and appliances for recording or reproducing sound or both; television image and sound recorders or reproducers; decoy calls and mouth-blown sound-signalling instruments; parts and accessories of the above articles; prepared media for sound or similar recording; sound-recorded or similar media" 100%

THE THIRD SCHEDULE

[See section 51(a)]

PART I

In the First Schedule to the Central Excises Act,—

- (i) Item No. 1F shall be omitted;
- (ii) Item No. 11B shall be omitted;
- (iii) Item No. 22D shall be omitted;
- (iv) Item No. 23D shall be omitted;
- (v) Item No. 24 shall be omitted.

PART II

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

In the First Schedule to the Central Excises Act,—

(i) in Item No. 4, under "II. Manufactured tobacco—", for sub-Item

(5), the following sub-Item shall be substituted, namely:—

(5) Chewing tobacco, including preparations commonly known as "Khara Masala", "Kinam", "Dokla", "Zarda", "Sukha" and "Surti" Thirty per cent.
ad valorem.

(ii) for Item No. 16, the following Item shall be substituted, namely:—

*16. TYRES—

"Tyre" means a pneumatic tyre in the manufacture of which rubber is used, and includes the inner tube, the tyre flap and the outer cover of such a tyre:

I. (1) Tyres for motor vehicles—

(a) Tyres for two-wheeled motor vehicles, namely, scooters, motor cycles, mopeds and auto-cycles—

(i) tyres Fifty rupees per tyre.

(ii) tubes

Twenty-five per cent.
ad valorem.

(b) Others—

(i) tyres

One thousand and five hundred rupees per tyre.

(ii) tubes and flaps

Sixty per cent.
ad valorem.

(2) Tyres for tractors, including agricultural tractors—

(a) tyres

Five hundred rupees per tyre.

(b) tubes and flaps

Twenty-five per cent.
ad valorem.

(3) Tyres for trailers,

(a) of sizes, namely,
7·50—16 and 9·00—16—

(i) tyres

Five hundred rupees per tyre.

(ii) tubes and flaps

Twenty-five per cent.
ad valorem.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
(b) Others—		
(i) tyres		
		One thousand and five hundred rupees per tyre.
		Sixty per cent. <i>ad valorem</i> .
II. Tyres for cycles and cycle rickshaws—		
(i) tyres		Sixty paise per tyre or fifteen per cent. <i>ad valorem</i> , whichever is higher.
(ii) tubes		Thirty paise per tube or fifteen per cent. <i>ad valorem</i> , whichever is higher.
III. Tyres for vehicles or equipments designed for use off the road		
IV. All other tyres		
<i>Explanation I.</i> —"Motor vehicles" means all mechanically propelled vehicles, other than tractors, designed for use upon roads.		
<i>Explanation II.</i> —"Motor vehicles", "tractors," including agricultural tractors" and "trailers" shall include a chassis; but shall not include a vehicle running upon fixed rails.;		
(iii) in Item No. 59, for sub-Items (1) and (2), the following sub-items shall be substituted, namely:—		
(1) Magnetic tapes of width not exceeding 6·5 millimetres for sound recording, whether in spools or in reels or in any other form or packing, but excluding cassette tapes.		Twenty-five per cent. <i>ad valorem</i> .
(2) Sound recorded magnetic tapes of width not exceeding 6·5 millimetres, whether in spools or in reels or in any other form or packing, but excluding sound recorded cassette tapes.		Twenty-five per cent. <i>ad valorem</i> .

THE FOURTH SCHEDULE

[See section 51 (b)]

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
In the First Schedule to the Central Excises Act,—		
(i) for Item No. 26A, the following Item shall be substituted, namely:		
26A. COPPER AND PRODUCTS THEREOF—		
"Copper" shall include any alloy in which copper predominates by weight over each of the other metals.		
(1) Unwrought copper in any form (refined or not, including blister copper and cement copper), including ingots, notched bars, wire bars, blocks, slabs, billets, shots, pellets, cathodes and cakes.		Five thousand and six hundred rupees per metric tonne.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
<i>Explanation.—This sub-Item includes wire bars and billets with their ends tapered or otherwise worked simply to facilitate their entry into machines for converting them into, for example, wire rods or tubes.</i>		
(2) Waste and scrap of copper.		Five thousand and six hundred rupees per metric tonne.
(3) Wrought bars, rods (including wire rods), angles, shapes and sections, of copper—		
(i) Wrought bars and rods (including wire rods) of copper.		Five thousand and six hundred rupees per metric tonne.
(ii) Wrought angles, shapes and sections of copper.		Six thousand and three hundred rupees per metric tonne.
(4) Castings, not otherwise specified.		Five thousand and six hundred rupees per metric tonne.
(5) Copper wire.		Twenty per cent. <i>ad valorem</i> .
(6) Wrought plates, sheets, blanks (including circles) and strips of copper.		Six thousand and three hundred rupees per metric tonne.
<i>Explanation.—In this sub-Item, "blank" means a piece of plate, sheet or strip, in any shape, including a circle, prepared for subsequent fabrication.</i>		
(7) Copper foil.		Six thousand and three hundred rupees per metric tonne.
(8) Copper powders (excluding cement copper) and flakes.		Twenty per cent. <i>ad valorem</i> .
(9) Pipes and tubes of copper.		Twenty-eight per cent. <i>ad valorem</i> .
(10) Shells and blanks for pipes and tubes; hollow sections of copper.		Twenty-eight per cent. <i>ad valorem</i> .

Explanation.—In this Item,—

(i) "waste and scrap" means waste and scrap metal fit only for the recovery of metal by remelting or for use in the manufacture of chemicals, but does not include slag, dross, scalings, ash and other cuprous residues;

(ii) "wrought bars and rods (including wire rods)" means

(a) any extruded, rolled, drawn or forged products of solid section, of which the width or the maximum cross-sectional dimension exceeds 6 millimetres and which, if they are flat, have a thickness exceeding one-tenth of the width; or

(b) any cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of any article or product falling under any other Item;

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
(iii) "wrought angles, shapes and sections" means		
(a) any extruded, rolled, drawn or forged products of solid section (other than round, rectangular, square and hexagonal), of which the width or the maximum cross-sectional dimension exceeds 6 millimetres and which, if they are flat, have a thickness exceeding one-tenth of the width; or		
(b) any cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of any article or product falling under any other Item;		
(iv) "wire" means any rolled, extruded or drawn product of solid and uniform cross-section, of which no cross-sectional dimension exceeds 6 millimetres, but does not include electric wires and cables, falling under Item No. 33B;		
(v) "plate" means a flat product whose thickness exceeds 10 millimetres and the width exceeds 300 millimetres;		
(vi) "sheet" means a flat product, cut to length, whose thickness exceeds 0.15 millimetre but does not exceed 10 millimetres, and the width exceeds 300 millimetres;		
(vii) "strip" means a flat product whose thickness exceeds 0.15 millimetre but does not exceed 10 millimetres, of any width and generally not cut to length and usually in coil;		
(viii) "foil" means a flat product of thickness (excluding any backing) not exceeding 0.15 millimetre, of any width, generally not cut to length and usually in coil, whether or not embossed, cut to shape, perforated, coated, printed or backed with paper or other reinforcing material;		
(ix) "powders and flakes" means all types of powders and flakes, but does not include cement copper and powders and flakes prepared as colours, pigments, paints or the like;		
(x) "pipes and tubes" means a hollow product of uniform cross-section and wall thickness having a continuous periphery produced by drawing, casting or extrusion process;		
(xi) "shells and blanks" means a hollow cylinder produced by extrusion, rotary piercing or casting for subsequent drawing into pipe or tube;		
(xii) "hollow section" means a section which is normally extruded, drawn or cast, the cross-section of which completely encloses a void or voids.;		
(ii) for Item No. 26B, the following Item shall be substituted, namely:-		
26B. ZINC AND PRODUCTS THEREOF—		
"Zinc" shall include any alloy in which zinc predominates by weight over each of the other metals.		
(1) Unwrought zinc in any form including blocks, plates, ingots, cakes, bars, billets, hard or soft slabs, cathodes, anodes, pellets, two hundred and seventy-five rupees per metric tonne.		
(2) Waste and scrap of zinc.		
Three thousand two hundred and seventy-five rupees per metric tonne.		

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
(3) Wrought bars, rods (including wire rods), angles shapes and sections of zinc; zinc wire.		
(i)	Wrought bars and rods (including wire rods) of zinc.	Three thousand two hundred and seventy-five rupees per metric tonne.
(ii)	Wrought angles, shapes and sections of zinc and zinc wire.	Three thousand eight hundred rupees per metric tonne.
(4)	Wrought plates sheets blanks (including circles, but excluding calots) and strips of zinc; zinc foil.	Three thousand eight hundred rupees per metric tonne.
<i>Explanation.</i> — In this sub-Item, "blank" means a piece of plate, sheet or strip in any shape, including a circle, prepared for subsequent fabrication.		
(5)	Zinc calots	Four thousand seven hundred and fifty rupees per metric tonne.
(6)	Zinc powders and flakes	Twenty per cent. <i>ad valorem</i> .
(7)	Pipes and tubes of zinc.	Forty-five per cent. <i>ad valorem</i> .
(8)	Shells and blanks for pipes and tubes, hollow sections of zinc.	Forty-five per cent. <i>ad valorem</i> .

Explanation. — In this Item,—

(i) "waste and scrap" means waste and scrap metal fit only for the recovery of metal by remelting or for use in the manufacture of chemicals, and includes dross and ash;

(ii) "wrought bars and rods (including wire rods)" means —

(a) any extruded, rolled drawn or forged products of solid section, of which the width or the maximum cross-sectional dimension exceeds 6 millimetres and which, if they are flat, have a thickness exceeding one tenth of the width; or

(b) any cast or sintered products of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of any article or product falling under any other Item;

(iii) "wrought angles shapes and sections" means

(a) any extruded, rolled, drawn or forged products of solid section (other than round, rectangular, square and hexagonal), of which the width or the maximum cross-sectional dimension exceeds 6 millimetres and which, if they are flat have a thickness exceeding one-tenth of the width; or

(b) any cast or sintered products, of the same forms and dimensions which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of any article or product falling under any other Item;

(iv) "wire" means any rolled, extruded or drawn product of solid and uniform cross-section, of which no cross-sectional dimension exceeds 6 millimetres;

Item No.	Description of goods	Rate of duty
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(1)	(2)	(3)
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(v) "plate" means a flat product cut to length whose thickness exceeds 10 millimetres, and width exceeds 500 millimetres;

(vi) "sheet" means a flat product whose thickness exceeds 0.15 millimetre but does not exceed 10 millimetres, and width exceeds 500 millimetres;

(vii) "strip" means a flat product, generally not cut to length whose thickness exceeds 0.15 millimetre but does not exceed 10 millimetres, and width does not exceed 500 millimetres;

(viii) "foil" means a flat product whose thickness (excluding any backing) not exceeding 0.15 millimetre, whether or not embossed, cut to shape, perforated, coated, printed or backed with paper or other reinforcing materials;

(ix) "powders and flakes" means all types of powders and flakes including dust, but excluding powders and flakes prepared as colours, pigments, paints or the like;

(x) "pipes and tubes" means a hollow product of uniform cross-section having a continuous periphery produced by drawing, casting or extrusion process;

(xi) "hollow-section" means a section which is normally extruded, drawn or cast and the cross-section of which completely encloses a void or voids;'

(iii) for Item No. 27, the following Item shall be substituted namely:-

'27. ALUMINIUM AND PRODUCTS THEREOF—

"Aluminium" shall include any alloy in which aluminium predominates by weight over each of the other metals.

(1) Unwrought aluminium in any form including ingots, pigs, blocks, billets, slabs, notched bars, wire bars, shots and pellets.

Fifty per cent.
ad valorem plus
four thousand
rupees per met-
ric tonne.

(2) Waste and scrap of aluminium.

Fifty per cent.
ad valorem plus
four thousand
rupees per
metric tonne.

(3) Wrought bars, rods (including wire rods), angles shapes and sections of aluminium.

Fifty per cent.
ad valorem plus
four thousand
rupees per
metric tonne.

(4) Castings, not otherwise specified.

Fifty per cent.
ad valorem plus
four thousand
rupees per
metric tonne.

(5) Aluminium wire

Fifty per cent.
ad valorem plus
four thousand
rupees per
metric tonne.

(6) Wrought plates, sheets, blanks (including circles) and strips of aluminium.

Fifty per cent.
ad valorem plus
four thousand
rupees per
metric tonne.

Item No.	Description of goods	Rate of Duty
(1)	(2)	(3)
<i>Explanation.</i> —In this sub-Item, “blank” means a piece of plate, sheet or strip in any shape, including a circle, prepared for subsequent fabrication.		
(7) Aluminium foil.		Fifty per cent. <i>ad valorem plus</i> four thousand rupees per metric tonne.
(8) Aluminium powders and flakes.		Fifty per cent. <i>ad valorem plus</i> four thousand rupees per metric tonne.
<i>Explanation.</i> —This sub-Item includes aluminium powders mixed with other base metal powders, but does not include powders or flakes, prepared as pigment paste, colours, paints or the like.		
(9) Pipes and tubes of aluminium		Fifty per cent. <i>ad valorem plus</i> four thousand rupees per metric tonne.
(10) Shells and blanks for pipes and tubes; hollow sections of aluminium.		Fifty per cent. <i>ad valorem plus</i> four thousand rupees per metric tonne.
(11) Containers, plain, lacquered or printed or lacquered and printed.		Fifty per cent. <i>ad valorem plus</i> four thousand rupees per metric tonnes.

Explanation.—In this Item.—

(i) “Waste and scrap” means waste and scrap metal fit only for the recovery of metal by remelting or for use in the manufacture of chemicals, but does not include sludge, dross, scalings, skimmings, ash and other residues;

(ii) “wrought bars, rods (including wire rods)” means

(a) any extruded, rolled, drawn or forged products of solid section, of which the width or the maximum cross-sectional dimension exceeds 6 millimetres and which, if they are flat, have a thickness exceeding one-tenth of the width; or

(b) any cast or sintered products of the same forms and dimensions which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of any article or product falling under any other Item;

(iii) “wrought angles, shapes and sections” means

(a) any extruded, rolled, drawn or forged products of solid section (other than round, rectangular, square and hexagonal), of which the width or the maximum cross-sectional dimension exceeds 6 millimetres and which, if they are flat, have a thickness exceeding one-tenth of the width; or

(b) any cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of any article or product falling under any other Item;

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
	(iv) "wire" means rolled, extruded or drawn product, of solid and uniform cross-section, of which no cross-sectional dimension exceeds 6 millimetres, but does not include electric wires and cables falling under Item No. 33 B;	
	(v) "plate" means a flat product of rectangular section, generally cut to length, whose thickness is 6 millimetres and above;	
	(vi) "sheet" means a flat product of rectangular section, generally cut to length, whose thickness exceeds 0.15 millimetre but is below 6 millimetres;	
	(vii) "strip" means a product of rectangular section, supplied in coil or flat form, of thickness exceeding 0.15 millimetre but below 6 millimetres, with length more than eight times the width;	
	(viii) "foil" means a flat product of rectangular section, of thickness (excluding any backing) not exceeding 0.15 millimetre, whether or not embossed, cut to shape, perforated, coated, printed or backed with paper or other reinforcing material;	
	(ix) "pipes and tubes" means a hollow product of uniform cross-section having a continuous periphery produced by drawing, casting, extrusion or welding process;	
	(x) "hollow section" means a section which is normally extruded, drawn or cast and the cross-section of which completely encloses a void or voids;	
	(xi) "container" means containers ordinarily intended for packaging of goods for sale, including collapsible tubes, casks, drums, cans, boxes, gas cylinders and pressure containers, whether in assembled or unassembled condition and containers known commercially as flattened or folded containers.;	
	(ii) for Item No. 27A, the following Item shall be substituted, namely :—	
27A. LEAD AND PRODUCTS THEREOF—		
	"Lead" shall include any alloy in which lead predominates by weight over each of the other metals.	
(1)	Unwrought lead (including argentiferous lead), including ingots, pigs, blocks, anodes, slabs, cakes and cast sticks.	Eight hundred and forty rupees per metric tonne.
(2)	Waste and scrap of lead.	Eight hundred and forty rupees per metric tonne.
(3)	Pipes and tubes of lead.	Twenty per cent. <i>ad valorem</i> .
(4)	Shells and blanks for pipes and tubes.	Twenty per cent. <i>ad valorem</i> .
(5)	Wrought lead in the form of bars, rods, anglos, sections, shapes, wires, plates, sheets, circles, strips and foils.	One thousand rupees per metric tonne.

THE FIFTH SCHEDULE

(See section 53)

Item No. in the First
Schedule to the Central
Excises and Salt Act, 1944

Description of goods

Rate of duty

(1)

(2)

(3)

In the First Schedule to the Additional Duties or Excise Act,—

(i) in Item No. 4, under "II. Manufactured tobacco,"—

(a) for the entry in the third column against sub-Item (2), the entry "Two hundred and sixty rupees per thousand or one hundred and seventy-five per cent, *ad valorem plus* twelve rupees per thousand, whichever is higher," shall be substituted;

(b) for sub-Item (5), the following sub-Item shall be substituted, namely:—

(5) Chewing tobacco, including preparations commonly known as "Khara Masala", "Kimam", "Dokia", "Zarda", "Sukha", and "Surti",

Ten per cent
ad valorem;

(ii) in Item No. 22, for each of the entries in the third column against sub-Items (1) (a) and (1)(b), the entry "Ten per cent, *ad valorem plus* rupees two per square metre." shall be substituted,

Bep. by Act.....(9.....of 1988, S.2 & sch. F

**THE WORKMEN'S COMPENSATION (AMENDMENT)
ACT, 1984**

No. 22 OF 1984

[12th May, 1984.]

An Act further to amend the Workmen's Compensation Act, 1923.

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

Short title and commencement.

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1984.

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

Amendment of section 2.

2. In section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), in sub-section (1), in sub-clause (ii) of clause (n), the words "on monthly wages not exceeding one thousand rupees" shall be omitted.

Substitution of new section for section 4.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

Amount of compensation.

4. (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(a) Where death results from the injury an amount equal to forty per cent. of the monthly wages of the deceased workman multiplied by the relevant factor;

or

an amount of twenty thousand rupees,

whichever is more;

an amount equal to fifty per cent. of the monthly wages of the injured workman multiplied by the relevant factor;

or

¹ 1st July, 1984, vide Notification No. S.O. 2145, dated 14-6-1984 Gazette of India, 1984, Part II, Section 3 (ii).

an amount of twenty-four thousand rupees,

whichever is more;

Explanation I.—For the purposes of clause (a) and clause (b), "relevant factor", in relation to a workman means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the workman on his last birthday immediately preceding the date on which the compensation fell due.

Explanation II.—Where the monthly wages of a workman exceed one thousand rupees, his monthly wages for the purposes of clause (a) and clause (b) shall be deemed to be one thousand rupees only,

(c) Where permanent partial disablement results from the injury

(i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury;

Explanation I.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

Explanation II.—In assessing the loss of earning capacity for the purposes of sub-clause (ii), the qualified medical practitioner shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in Schedule I;

REPEALED

196

Workmen's Compensation (Amendment)

[Act 22]

(d) Where temporary disablement, whether total or partial, results from the injury

a half-monthly payment of the sum equivalent to twenty-five per cent. of monthly wages of the workman, to be paid in accordance with the provisions of sub-section (2).

(2) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day—

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or

(ii) after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be; and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

Explanation.—Any payment or allowance which the workman has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (a) of the proviso.

(3) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Amend-
of sec-
tion 15.

4. In section 15 of the principal Act, in sub-section (3), for the words "His Majesty's Dominions or in any other foreign country", the words "in any foreign country" shall be substituted.

Amend-
ment
of sec-
tion 35.

5. In section 35 of the principal Act, in sub-section (1),—

(i) for the words "to any part of His Majesty's Dominions or to any other country", the words "to any foreign country" shall be substituted;

(ii) for the words "such part or country", the words "such foreign country" shall be substituted;

(iii) for the words "in any part of His Majesty's Dominions or in any other country", the words "in any foreign country" shall be substituted.

6. For Schedule III of the principal Act, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for Schedule III.

"SCHEDULE III

(See section 3).

LIST OF OCCUPATIONAL DISEASES

S. No.	Occupational disease	Employment
(1)	(2)	(3)

PART A

- | | |
|---|--|
| 1. Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination. | (a) All work involving exposure to health or laboratory work; |
| 2. Diseases caused by work in compressed air. | (b) All work involving exposure to veterinary work; |
| 3. Diseases caused by lead or its toxic compounds. | (c) Work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; |
| 4. Poisoning by nitrous fumes. | (d) Other work carrying a particular risk of contamination. |
| 5. Poisoning by organo phosphorus compounds. | All work involving exposure to the risk concerned. |
| | All work involving exposure to the risk concerned. |
| | All work involving exposure to the risk concerned. |
| | All work involving exposure to the risk concerned. |

PART B

- | | |
|--|--|
| 1. Diseases caused by phosphorus or its toxic compounds. | All work involving exposure to the risk concerned. |
| 2. Diseases caused by mercury or its toxic compounds. | All work involving exposure to the risk concerned. |
| 3. Diseases caused by benzene or its toxic homologues. | All work involving exposure to the risk concerned. |

REPEALED

58

Workmen's Compensation (Amendment)

[Act 22]

(1)	(2)	(3)
4. Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.	
5. Diseases caused by chromium or its toxic compounds.	All work involving exposure to the risk concerned.	
6. Diseases caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned.	
7. Diseases caused by radioactive substances and ionising radiations.	All work involving exposure to the action of radioactive substances or ionising radiations.	
8. Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	All work involving exposure to the risk concerned.	
9. Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.	
10. Diseases caused by carbon disulphide.	All work involving exposure to the risk concerned.	
11. Occupational cataract due to infra-red radiations.	All work involving exposure to the risk concerned.	
12. Diseases caused by manganese or its toxic compounds.	All work involving exposure to the risk concerned.	
13. Skin diseases caused by physical, chemical or biological agents not included in other items.	All work involving exposure to the risk concerned.	
14. Hearing impairment caused by noise.	All work involving exposure to the risk concerned.	
15. Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.	All work involving exposure to the risk concerned.	
16. Diseases caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned.	
17. Diseases caused by cadmium or its toxic compounds.	All work involving exposure to the risk concerned.	
18. Occupational asthma caused by recognised sensitising agents inherent to the work process.	All work involving exposure to the risk concerned.	
19. Diseases caused by fluorine or its toxic compounds.	All work involving exposure to the risk concerned.	
20. Diseases caused by nitroglycerine or other nitroacid esters.	All work involving exposure to the risk concerned.	
21. Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.	
22. Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide.	All work involving exposure to the risk concerned.	
23. Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.	

~~REPEALED~~

(1)	(2)	(3)
24. Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.		All work involving exposure to the risk concerned.

PART C

1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraeosilicosis, asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death.
2. Bagassosis.
3. Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust (Byssinosis).
4. Extrinsic allergic alveolitis caused by the inhalation of organic dusts.
5. Bronchopulmonary diseases caused by hard metals.
7. For Schedule IV of the principal Act, the following Schedule shall be substituted, namely:—

"SCHEDULE IV

(See section 4)

Factors for working out lump sum equivalent of compensation amount in case of permanent disablement and death.

Completed years of age on the last birthday of the workman immediately preceding the date on which the compensation fell due

Factors

1	2
not more than 16	228.54
17	227.49
18	226.38
19	225.22
20	224.00
21	222.71
22	221.37
23	219.95
24	218.47
25	216.91

Substitution of new Schedule for Schedule IV.

REPEALED

200

Workmen's Compensation (Amendment) [Act 22 of 1984]

1	2
26	215.28
27	213.57
28	211.79
29	209.92
30	207.98
31	205.95
32	203.85
33	201.66
34	199.40
35	197.06
36	194.64
37	192.14
38	189.56
39	186.90
40	184.17
41	181.37
42	178.49
43	175.54
44	172.52
45	169.44
46	166.29
47	163.07
48	159.80
49	156.47
50	153.09
51	149.67
52	146.20
53	142.68
54	139.13
55	135.56
56	131.95
57	128.33
58	124.70
59	121.05
60	117.41
61	113.77
62	110.14
63	106.52
64	102.93
65 or more	99.37. "

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

THE PUNJAB COMMERCIAL CROPS CESS (AMENDMENT)
ACT, 1984

No. 23 OF 1984

[12th May, 1984.]

An Act further to amend the Punjab Commercial Crops Cess
Act, 1974.

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

1. This Act may be called the Punjab Commercial Crops Cess (Amendment) Act, 1984.
Short title.
2. In the Punjab Commercial Crops Cess Act, 1974, in section 3, in
sub-section (1), for the figures "1983-84", the figures "1988-89" shall be
substituted.
Amend-
ment of
section 3
of Pun-
jab Act
14 of
1974,

THE NATIONAL SECURITY (AMENDMENT) ACT, 1984

No. 24 OF 1984

[18th May, 1984.]

An Act to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.

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

Short title and commencement.

1. (1) This Act may be called the National Security (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 5th day of April, 1984.

Amendment of Act 65 of 1980 in its application to Punjab and Chandigarh.

2. The National Security Act, 1980 (hereinafter referred to as the principal Act) shall, in its application to the State of Punjab and the Union territory of Chandigarh, have effect subject to the amendments specified in sections 3 to 5.

Amendment of section 3.

3. In sub-section (4) of section 3 of the principal Act, in the proviso,—

(a) for the words "ten days", the words "fifteen days" shall be substituted;

(b) for the words "fifteen days", the words "twenty days" shall be substituted.

Amendment of section 8.

4. In section 8 of the principal Act, in sub-section (1), for the words "ten days", the words "fifteen days" shall be substituted.

Insertion of new section 14A.

5. In the principal Act, after section 14, the following section shall be inserted, namely:—

Circumstances in which persons may be detained for periods

'14A. (1) Notwithstanding anything contained in the foregoing provisions of this Act, any person in respect of whom an order of detention has been made under this Act at any time before the 3rd day of April, 1985 may be detained without obtaining the opinion of the Advisory Board for a period longer than three months, but not

exceeding six months, from the date of his detention where such person had been detained with a view to preventing him from acting, in any disturbed area, in any manner prejudicial to—

- (a) the defence of India; or
- (b) the security of India;
- (c) the security of the State; or
- (d) the maintenance of public order; or
- (e) the maintenance of supplies and services essential to the community.

longer than three months without obtaining the opinion of Advisory Boards.

Explanation 1.—The provisions of the *Explanation* to sub-section (2) of section 3 shall apply for the purposes of this sub-section as they apply for the purposes of that sub-section.

32 of 1983.
33 of 1983.

Explanation 2.—In this sub-section, “disturbed area” means any area which is for the time being declared by notification under section 3 of the Punjab Disturbed Areas Act, 1983, or under section 3 of the Chandigarh Disturbed Areas Act, 1983, to be a disturbed area.

(2) In the case of any person to whom sub-section (1) applies, sections 10 to 13 shall have effect subject to the following modifications, namely:—

- (a) in section 10, for the words “shall, within three weeks”, the words “shall, within four months and two weeks” shall be substituted;
- (b) in section 11,—
 - (i) the sub-section (1), for the words “seven weeks”, the words “five months and three weeks” shall be substituted;
 - (ii) in sub-section (2), for the words “detention of the person concerned”, the words “continued detention of the person concerned” shall be substituted;
- (c) in section 12, for the words “for the detention”, at both the places where they occur, the words “for the continued detention” shall be substituted;
- (d) in section 13, for the words “twelve months”, the words “two years” shall be substituted.

5 of 1984. 6. (1) The National Security (Amendment) Ordinance, 1984, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Repeal and saving.

Ran. by at. of 19

Rep. by act..... 11.... of 1985, 2, S.I.

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 1984

No. 25 OF 1984

[18th May, 1984.]

An Act to amend the Payment of Gratuity Act, 1972.

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

Short title and commencement:

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 1984.

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

Amendment of section 2.

2. In section 2 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act),—

(a) in clause (e),—

(i) for the words "one thousand rupees", wherever they occur, the words "one thousand and six hundred rupees" shall be substituted;

(ii) for the portion beginning with the words "but does not include any such person" and ending with the words and figures "or the Navy Act, 1957.", the following shall be substituted, namely:—

"and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.";

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

(r) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment;.

¹ 1st July 1984, vide Notification No. S.O. 2144, dated 14-6-1984, Gazette of India, 1984, Part II, Section 3 (ii).

AMENDMENT
OF SECTION
4.

3. In section 4 of the principal Act,—

(a) in sub-section (1), for the words "nominee or", the words "nominee or, as the case may be, the guardian of such nominee or" shall be substituted;

(b) in sub-section (2), in the second proviso, for the words "an employee employed in a seasonal establishment", the words "an employee who is employed in a seasonal establishment and who is not so employed throughout the year" shall be substituted;

(c) in sub-section (6), in clause (b), for the words "shall be wholly forfeited", the words "may be wholly or partially forfeited" shall be substituted;

(d) after sub-section (6), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

"(7) For the removal of doubts, it is hereby declared that the gratuity determined in accordance with the provisions of *Explanation* to clause (e) of section 2 shall be payable to an employee referred to in that clause notwithstanding that immediately, or at any time, before the termination of his employment in the manner specified in clause (a) or clause (b) or clause (c) of sub-section (1), he was in receipt of—

(i) where such termination of his employment is before the commencement of the Payment of Gratuity (Amendment) Act, 1984, wages exceeding one thousand rupees per month, and

(ii) where such termination of his employment is after such commencement, wages exceeding one thousand and six hundred rupees per month.”.

4. In section 7 of the principal Act,—

(a) in sub-section (4),—

(i) in clause (a), the *Explanation* shall be omitted;

(ii) clauses (b), (c) and (d) shall be re-lettered as clauses (c), (d) and (e) respectively, and before clause (c) as so re-lettered, the following clause shall be inserted, namely:—

"(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.”;

(iii) for clause (c) as so re-lettered, the following clause shall be substituted, namely:—

"(c) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is

AMEND-
MENT OF
SECTION 7.

~~REPEATED~~

266

Payment of Gratuity (Amendment)

[Avt 25]

found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.”;

(iv) in clause (e) as so re-lettered, in sub-clause (ii), for the words “nominee or”, the words “nominee or, as the case may be, the guardian of such nominee or” shall be substituted;

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

“Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.”.

Insertion
of new
sections
7A and
7B.

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

Inspect-
ors.

“7A. (1) The appropriate Government may, by notification, appoint as many Inspectors, as it deems fit, for the purposes of this Act.

(2) The appropriate Government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same area, also provide, by such order, for the distribution or allocation of work to be performed by them under this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Powers
of Inspec-
tors.

7B. (1) Subject to any rules made by the appropriate Government in this behalf, an Inspector may, for the purpose of ascertaining whether any of the provisions of this Act or the conditions, if any, of any exemption granted thereunder, have been complied with, exercise all or any of the following powers, namely:—

(a) require an employer to furnish such information as he may consider necessary;

(b) enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in any factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made thereunder, or otherwise kept or exhibited in relation to the employment of any person or the payment of gratuity to the employees, and require the production thereof for inspection;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer or any person whom he finds in such premises or place and who, he has reasonable cause to believe, is an employee employed therein;

(d) make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit, such register, record, notice or other document as he may consider relevant in respect of that offence;

(e) exercise such other powers as may be prescribed.

(2) Any person required to produce any register, record, notice or other document or to give any information by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

45 of 1860.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973 shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code."

6. In section 13 of the principal Act, after the words "payable under this Act", the words "and no gratuity payable to an employee employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop exempted under section 5" shall be inserted.

Amend-
ment of
section
13.

THE PAYMENT OF GRATUITY (SECOND AMENDMENT)
ACT, 1984

No. 26 OF 1984

[18th May, 1984.]

An Act further to amend the Payment of Gratuity Act, 1972.

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

Short title.

1. This Act may be called the Payment of Gratuity (Second Amendment) Act, 1984.

Amendment of section 1.

2. In section 1 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:

39 of 1972.

"(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten."

Amendment of section 2.

3. In section 2 of the principal Act, for clause (c) and the Explanations thereto, the following clause shall be substituted, namely:—

'(c) "continuous service" means continuous service as defined in section 2A.'

insertion of new section 2A.

4. In the principal Act, after section 2, the following section shall be inserted, namely:

Continuous service.

"2A. For the purposes of this Act,—

(1) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order imposing a punishment or penalty or treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any

fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act;

(2) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case;

(3) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.”

5. Section 5 of the principal Act shall be renumbered as sub-section (1) of that section and, after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) The appropriate Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.”

6. The amendments made in the principal Act by section 3 and section 4 shall be deemed to have been made with effect from the 11th day of February, 1981 and accordingly any action or thing taken or done

Amend-
ment of
section 5.

Valida-
tion.

or purporting to have been taken or done under the principal Act on or after the said date and before the commencement of this Act, shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the said amendments had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person, before the commencement of this Act, shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

~~Rep. by Act.....19.....of 1983, S.2, & sch.I~~

THE UNION DUTIES OF EXCISE (DISTRIBUTION)
AMENDMENT ACT, 1984

No. 27 OF 1984

[18th May, 1984.]

An Act to amend the Union Duties of Excise (Distribution) Act, 1979.

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

1. (1) This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1984.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. In the Union Duties of Excise (Distribution) Act, 1979 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 28th day of October, 1978", the words, figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

Amendment of long title of Act 24 of 1979.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 3.

"3. During the financial year commencing on the 1st day of April, 1984, there shall be paid, out of the Consolidated Fund of India, to the States sums equivalent to the distributable Union duties of excise levied and collected in that year and those sums shall be distributed, provisionally, a part

Payment to States of sums equivalent to a part

REPEALED212 *Union Duties of Excise (Distribution) Amendment* [Act 27 of 1984]

of the net proceeds of Union duties of excise and provisional distribution of the sums among them.

to each of the States specified in column (1) of the Table below in such percentage as is set out against it in column (2):—

"TABLE"

State	Percentage
(1)	(2)
Andhra Pradesh	7.691
Assam	2.793
Bihar	13.021
Gujarat	4.101
Haryana	1.177
Himachal Pradesh	0.521
Jammu and Kashmir	0.839
Karnataka	4.876
Kerala	4.035
Madhya Pradesh	8.725
Maharashtra	6.632
Manipur	0.218
Meghalaya	0.200
Nagaland	0.097
Orissa	4.682
Punjab	1.226
Rajasthan	4.813
Sikkim	0.028
Tamil Nadu	7.637
Tripura	0.373
Uttar Pradesh	18.290
West Bengal	8.025

Rep. by Act..... 19..... of 1938, S.2 & Sch. I

**THE UNION DUTIES OF EXCISE (ELECTRICITY)
DISTRIBUTION (AMENDMENT) ACT, 1984**

No. 28 OF 1984

[18th May, 1984.]

An Act to amend the Union Duties of Excise (Electricity) Distribution Act, 1980.

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

1. (1) This Act may be called the Union Duties of Excise (Electricity) Distribution (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. In the Union Duties of Excise (Electricity) Distribution Act, 1980 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 28th day of October, 1978", the words, figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. During the financial year commencing on the 1st day of April, 1984, there shall be paid, out of the Consolidated Fund of India, to the States sums equivalent to the distributable Union duties of excise on electricity levied and collected in that year and those sums shall

REPEALED

214 Union Duties of Excise (Electricity) Distribution (Amendment) [ACT 28 OF 1984]

the net
pro-
ceeds of
union
duties of
excise on
elec-
tricity and
provi-
sional
distribution of
the sum
among
them.

be distributed, provisionally, to each of the States specified in column (1) of the Table below in such percentage as is set out against it in column (2).

"TABLE"

State	Percentage
(1)	(2)
Andhra Pradesh	8.51
Assam	1.09
Bihar	5.74
Gujarat	9.66
Haryana	2.49
Himachal Pradesh	0.55
Jammu and Kashmir	1.15
Karnataka	7.05
Kerala	4.22
Madhya Pradesh	7.09
Maharashtra	19.38
Manipur	0.04
Meghalaya	0.11
Nagaland	0.04
Orissa	3.02
Punjab	3.54
Rajasthan	2.92
Sikkim	0.01
Tamil Nadu	7.71
Tripura	0.08
Uttar Pradesh	8.17
West Bengal	7.43".

Rep. by Act.....11.....of 1988, S. 2, & Sch I

THE ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) AMENDMENT ACT, 1984

No. 29 OF 1984

[18th May, 1984.]

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

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

1. (1) This Act may be called the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 28th day of October, 1978", the words, figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

3. In the principal Act, in the Second Schedule,—

(a) in paragraph 1, for the words, figures and letters "each of the financial years commencing on and after the 1st day of April, 1979, there shall be paid", the words, figures and letters "the financial year commencing on the 1st day of April, 1984, there shall be paid, provisionally," shall be substituted;

(b) in paragraph 2, for the words, figures and letters "each of the financial years commencing on and after the 1st day of April, 1979, there shall be paid", the words, figures and letters "the financial year commencing on the 1st day of April, 1984, there shall be paid, provisionally," shall be substituted;

(c) in paragraph 3,—

(i) for the words, figures and letters "each of the financial years commencing on and after the 1st day of April, 1979, there

Short title and commencement.

Amendment of long title of Act 58 of 1957.

Amendment of Second Schedule.

~~REPEALED~~
216 Additional Duties of Excise (Goods of Special Importance) Amendment [Act 29 of 1984]

shall be paid", the words, figures and letters "the financial year commencing on the 1st day of April, 1984, there shall be paid, provisionally," shall be substituted;

(ii) for the Table, the following Table shall be substituted, namely:—

"TABLE"

State	Percentage
(i)	(ii) }
Andhra Pradesh	8.018
Assam	2.297
Bihar	7.21
Gujarat	6.013
Haryana	2.789
Himachal Pradesh	0.734
Jammu and Kashmir	0.744
Karnataka	6.081
Kerala	4.019
Madhya Pradesh	6.419
Maharashtra	13.506
Manipur	0.185
Meghalaya	0.171
Nagaland	0.084
Orissa	3.456
Punjab	4.268
Rajasthan	4.365
Sikkim	0.034
Tamil Nadu	7.707
Tripura	0.256
Uttar Pradesh	12.544
West Bengal	9.091."

... by Act..... 11 of 1988, S. 2 & Sch. I

**THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES
(AMENDMENT) ACT, 1984**

No. 30 of 1984

[21st May, 1984.]

An Act further to amend the Monopolies and Restrictive Trade Practices Act, 1969, and the Companies Act, 1956.

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

1. (1) This Act may be called the Monopolies and Restrictive Trade Practices (Amendment) Act, 1984.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any amendment made by any provision of this Act to the commencement of the Monopolies and Restrictive Trade Practices (Amendment) Act, 1984 shall be construed as a reference to the commencement of that provision.

Short title and commencement.

PART I

**AMENDMENTS TO THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT,
1969**

2. Throughout the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act),—

Substitution of certain expressions.

(a) for the expressions "Director" and "Registrar", wherever they occur, the expression "Director General" shall be substituted, and such consequential changes as the rules of grammar may require, shall be made for the purpose of effecting such substitution;

(b) for the words "by notification in the Official Gazette", wherever they occur, the words "by notification" shall be substituted.

¹1st August, 1984 *vide* Notification No.

~~REPEALED~~

218

Monopolies and Restrictive Trade Practices (Amendment)

[ACT 30]

Amend-
ment of
section 2.

3. In section 2 of the principal Act,—

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

(c) "Director General" means the Director General of Investigation and Registration appointed under section 8, and includes any Additional, Joint, Deputy or Assistant Director General of Investigation and Registration appointed under that section;'

(2) in clause (d),—

(a) in the proviso, for the words "relevant year", wherever they occur, the words "relevant period" shall be substituted;

(b) for *Explanation IV*, the following *Explanation* shall be substituted, namely:—

"*Explanation IV*.—In determining, with reference to the features specified in sub-clause (ii), (iii) or (iv), as the case may be, the question as to whether an undertaking is or is not a dominant undertaking, regard shall be had to—

(i) the average annual production of the goods, or the average annual value of the services provided, by the undertaking during the relevant period; and

(ii) the figures published by such authority as the Central Government may, by notification, specify, with regard to the total production of such goods made, or the total value of such services provided, in India or any substantial part thereof during the relevant period.";

(c) for *Explanations V and VI*, the following *Explanations* shall be substituted, namely:—

'*Explanation V*.—In determining the question as to whether an undertaking is or is not a dominant undertaking in relation to any goods supplied, distributed or controlled in India, regard shall be had to the average annual quantity of such goods supplied, distributed or controlled in India by the undertaking during the relevant period.

Explanation VI.—For the purposes of this clause, "relevant period" means the period of three calendar years immediately preceding that calendar year which immediately precedes the calendar year in which the question arises as to whether an undertaking is or is not a dominant undertaking';

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

'(da) "financial institution" means,—

(i) a public financial institution specified in or under section 4A of the Companies Act, 1956;

(ii) a State Financial, Industrial or Investment Corporation;

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

(iv) a nationalised bank, that is to say, a corresponding new bank as defined in section 2 of—

(i) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; or

(ii) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

(v) the General Insurance Corporation of India established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972;

(vi) the Industrial Reconstruction Corporation of India; or

(vii) any other institution which the Central Government may, by notification, specify in this behalf;

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

3 of 1930. (e) "goods" means goods as defined in the Sale of Goods Act, 1930, and includes,—

(i) products manufactured, processed or mined in India;

(ii) shares and stocks;

(iii) in relation to goods supplied, distributed or controlled in India, goods imported into India;'

(5) after clause (ee), the following clause shall be inserted, namely:—

(ef) "group" means a group of—

(i) two or more individuals, associations of individuals, firms, trusts, trustees or bodies corporate (excluding financial institutions), or any combination thereof, which exercises, or is established to be in a position to exercise, control, directly or indirectly, over any body corporate, firm or trust; or

(ii) associated persons.

Explanation.—For the purposes of this clause—

(I) a group of persons who are able, directly or indirectly, to control the policy of a body corporate, firm or trust, without having a controlling interest in that body corporate, firm or trust, shall also be deemed to be in a position to exercise control over it;

(II) "associated persons"—

(a) in relation to a director of a body corporate, means—

(i) a relative of such director, and includes a firm in which such director or his relative is a partner;

(ii) any trust of which any such director or his relative is a trustee;

(iii) any company of which such director, whether independently or together with his relatives, constitutes one-fourth of its Board of directors;

(iv) any other body corporate, at any general meeting of which not less than one-fourth of the total number of directors of such other body corporate are appointed or controlled by the director of the first mentioned body corporate or his relative, whether acting singly or jointly;

(b) in relation to the partner of a firm, means a relative of such partner and includes any other partner of such firm; and

(c) in relation to the trustee of a trust, means any other trustee of such trust;

(III) where any person is an associated person in relation to another, the latter shall also be deemed to be an associated person in relation to the former.;

(6) in clause (g),—

(a) for the word "one-third", wherever it occurs, the word "one-fourth" shall be substituted;

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

"(iii) where the undertakings are owned by bodies corporate,—

(a) if one body corporate manages the other body corporate, or

(b) if one body corporate is a subsidiary of the other body corporate, or

(c) if the bodies corporate are under the same management, or

(d) if one body corporate exercises control over the other body corporate in any other manner;"

(c) in sub-clause (vi), for the words "group of persons", the words "by the same group" shall be substituted;

(d) in *Explanation I*,—

(i) in the opening portion, for the words "two undertakings, owned by bodies corporate", the words "two bodies corporate." shall be substituted;

(ii) in clause (iv), for the brackets and words "(whether independently or together with the relatives of such directors) one-third of the directors of the other; or", the brackets

and words " (whether independently or together with relatives of such directors or the employees of the first mentioned body corporate) one-fourth of the directors of the other; or" shall be substituted;

(iii) in clause (vi), for the words "same body corporate or bodies corporate belonging to a group, holding not less than one-third of the equity shares", the words "same body corporate or bodies corporate belonging to a group, holding, whether independently or along with its or their subsidiary or subsidiaries, not less than one-fourth of the equity shares" shall be substituted;

(iv) in clauses (vii) and (viii), for the words "with respect to any matter relating to", the words "in relation to" shall be substituted;

(da) in *Explanation IV*, for the words "public financial institutions", the words "financial institutions" shall be substituted;

(e) the *Explanation* below the *Illustration* shall be omitted;

(7) in clause (i),—

(a) in sub-clause (i), for the words "maintaining prices", the words "maintaining the prices of goods or charges for the services" shall be substituted;

(b) after sub-clause (iii), the following sub-clauses shall be inserted, namely:—

"(iv) increasing unreasonably,—

(a) the cost of production of any goods; or

(b) charges for the provision, or maintenance, of any services;

(v) increasing unreasonably,—

(a) the prices at which goods are, or may be, sold or re-sold, or the charges at which the services are, or may be, provided; or

(b) the profits which are, or may be, derived by the production, supply or distribution (including the sale or purchase) of any goods or by the provision of any services;

(vi) preventing or lessening competition in the production, supply or distribution of any goods or in the provision or maintenance of any services by the adoption of unfair methods or unfair or deceptive practices;"

(8) for clause (j) and the *Explanations* thereto, the following clauses shall be substituted, namely:—

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

(ja) "owner", in relation to an undertaking, means an individual, Hindu undivided family, body corporate or other association of individuals, whether incorporated or not, or trust (whether public or private or whether religious or charitable) who or which owns or controls, the whole or substantially the whole of such undertaking, and includes any associated person who is a constituent of a group and who has the ultimate control over the affairs of such undertaking,'

(9) clause (n) shall be omitted;

(10) to clause (q), the following proviso shall be added, namely:—

“Provided that, after the commencement of the Monopolies and Restrictive Trade Practices (Amendment) Act, 1984, there shall be included in every scheme of finance, the estimated capital outlay which would be needed to give effect to the scheme;”;

(11) in clause (r), for the words “banking, insurance, transport”, the words “banking, financing, insurance, transport, processing” shall be substituted;

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

“(v) “undertaking” means an enterprise which is, or has been, or is proposed to be, engaged in the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, either directly or through one or more of its units or divisions, whether such unit or division is located at the same place where the undertaking is located or at a different place or at different places.

Explanation I.—In this clause,—

(a) “article” includes a new article and “service” includes a new service;

(b) “unit” or “division”, in relation to an undertaking includes,—

(i) a plant or factory established for the production, storage, supply, distribution, acquisition or control of any article or goods;

(ii) any branch or office established for the provision of any service.

Explanation II.—For the purposes of this clause, a body corporate, which is, or has been, engaged only in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate shall be deemed to be an undertaking.

Explanation III.—For the removal of doubts, it is hereby declared that an investment company shall be deemed, for the purposes of this Act, to be an undertaking;’;

(13) in clause (w), the words “or for renewals, or diminution in value” shall be omitted;

(14) in clause (x), for the words “sells the goods to any person for the purpose of re-sale”, the words “sells the goods, either in bulk or in large quantities, to any person for the purposes of re-sale, whether in bulk or in the same or smaller quantities” shall be substituted.

4. After section 2 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
2A.

"2A. If any question arises as to whether,—

(a) two or more individuals, trustees, associations of individuals, firms or bodies corporate or any combination thereof, constitute, or fall within, a group, or

(b) two or more undertakings are inter-connected undertakings within the meaning of this Act, or

(c) two or more bodies corporate are under the same management,

1 of 1956

the Central Government or where the Board of Company Law Administration, constituted under section 10E of the Companies Act, 1956, is, by notification, authorised so to do by the Central Government, that Board, shall decide such question, after giving to the persons concerned a reasonable opportunity of being heard.”.

Power of
Central
Govern-
ment to
decide
certain
matters.

5. In section 3 of the principal Act,—

Amend-
ment of
section 3.

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

"(f) any undertaking owned by a co-operative society formed and registered under any Central, Provincial or State Act relating to co-operative societies;

(g) any financial institution.”;

(ii) after clause (g), as so inserted, the following *Explanation* shall be inserted, namely:—

Explanation.—In determining, for the purposes of clause (c), whether or not any undertaking is owned or controlled by a corporation, the shares held by financial institutions shall not be taken into account.”.

6. In section 6 of the principal Act,—

Amend-
ment of
section 6.

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

"(3A) Where any such casual vacancy occurs in the office of the Chairman of the Commission, the seniormost member of the Commission, holding office for the time being, shall discharge the functions of the Chairman until a person appointed to fill such vacancy assumes the office of the Chairman of the Commission.

(3B) When the Chairman of the Commission is unable to discharge the functions owing to absence, illness or any other cause, the seniormost member of the Commission, if authorised so to do by the Chairman in writing, shall discharge the func-

tions of the Chairman until the day on which the Chairman resumes the charge of his functions.”;

(ii) in sub-section (7), for the words “every member”, the words “every other member” shall be substituted;

(iii) in sub-section (8), for the words “Any member”, the words “The Chairman or any member” shall be substituted.

**Substi-
tution of
section 8.**

Appoint-
ment of
Director
General,
etc., and
staff of
the Com-
mission.

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

“8. (1) The Central Government may, by notification, appoint a Director General of Investigation and Registration, and as many Additional, Joint, Deputy or Assistant Directors General of Investigation and Registration, as it may think fit, for making investigation for the purposes of this Act and for maintaining a Register of agreements subject to registration under this Act and for performing such other functions as are, or may be, provided by, or under, this Act.

(2) The Director General may, by written order, authorise one of the Additional, Joint, Deputy or Assistant Directors General to function as the Registrar of agreements subject to registration under this Act.

(3) Every person authorised to function as the Registrar of agreements and every Additional, Joint, Deputy or Assistant Director General shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director General.

(4) The Central Government may provide the staff of the Commission and may, in addition, make provisions for the conditions of service of the Director General, Additional, Joint, Deputy or Assistant Director General and of the members of the staff of the Commission.

(5) The conditions of service of the Director General or any Additional, Joint, Deputy or Assistant Director General or of any member of the staff of the Commission shall not be varied to his disadvantage after his appointment.”

**Substi-
tution of
section
11.**

Investi-
gation
by Direc-
tor Gen-
eral be-
fore
issue of
process
in certain
cases.

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

“11. (1) Where any complaint is received by the Commission under sub-clause (i) of clause (a) of section 10, it may, before issuing any process requiring the attendance of the person complained against, by an order, require the Director General to make, or cause to be made, a preliminary investigation in such manner as it may direct and submit a report to the Commission to enable it to satisfy itself as to whether or not the complaint requires to be inquired into.

(2) The Director General may, upon his own knowledge or information or on a complaint made to him, make, or cause to be made, a preliminary investigation in such manner as he may think fit to enable him to satisfy himself as to whether or not an application

of 1956.

should be made by him to the Commission under sub-clause (iii) of clause (a) of section 10.

(3) For the purpose of conducting the preliminary investigation under sub-section (1), or sub-section (2), as the case may be, the Director General or any other person making the investigation shall have the same powers as may be exercised by an Inspector under sub-section (2) of section 44.

(4) Any order or requisition made by a person making an investigation under sub-section (1), or sub-section (2), shall be enforced in the same manner as if it were an order or requisition made by an Inspector appointed under section 240 or section 240A of the Companies Act, 1956, and any contravention of such order or requisition shall be punishable in the same manner as if it were an order or requisition made by an Inspector appointed under the said section 240 or section 240A".

9. In section 12 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Where, during any inquiry under this Act, the Commission has any grounds to believe that any books or papers of, or relating to any undertaking in relation to which such inquiry is being made or which the owner of such undertaking may be required to produce in such inquiry, are being, or may be, destroyed, mutilated, altered, falsified or secreted, it may, by a written order, authorise any officer of the Commission to exercise the same powers of entry, search and seizure in relation to the undertaking, or the books or papers, aforesaid as may be exercised by the Director General while holding a preliminary investigation under section 11."

10. After section 12 of the principal Act, the following sections shall be inserted, namely:—

"12A. (1) Where, during an inquiry before the Commission, it is proved, whether by the complainant, Director General, any trader or class of traders or any other person, by affidavit or otherwise, that any undertaking or any person is carrying on, or is about to carry on, any monopolistic or any restrictive, or unfair, trade practice and such monopolistic or restrictive, or unfair, trade practice is likely to affect prejudicially the public interest or the interest of any trader, class of traders or traders generally or of any consumer or consumers generally, the Commission may, for the purposes of staying or preventing the undertaking or, as the case may be, such person from causing such prejudicial effect, by order, grant a temporary injunction restraining such undertaking or person from carrying on any monopolistic or restrictive, or unfair, trade practice until the conclusion of such inquiry or until further orders.

(2) The provisions of rules 2A to 5 (both inclusive) of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply to a temporary injunction issued by the Commission under this section, as they apply to a temporary injunction issued by a civil court, and any reference in any such rule to a suit shall be construed as a reference to an inquiry before the Commission.

o. 1908

Amend-
ment of
section 12.Insertion
of new
sections
12A, 12B
and 12C.
Power of
the
Commis-
sion to
grant tem-
porary
injunc-
tions.

REPEATED

526

Monopolies and Restrictive Trade Practices (Amendment)

[ACT 30]

Power of the Commission to award compensation.

12B. (1) Where, as a result of the monopolistic or restrictive, or unfair, trade practice, carried on by any undertaking or any person, any loss or damage is caused to the Central Government, or any State Government or any trader or class of traders or any consumer, such Government or, as the case may be, trader or class of traders or consumer may, without prejudice to the right of such Government, trader or class of traders or consumer to institute a suit for the recovery of any compensation for the loss or damage so caused, make an application to the Commission for an order for the recovery from that undertaking or owner thereof or, as the case may be, from such person, of such amount as the Commission may determine, as compensation for the loss or damage so caused.

(2) Where any loss or damage referred to in sub-section (1) is caused to numerous persons having the same interest, one or more of such persons may, with the permission of the Commission, make an application, under that sub-section, for and on behalf of, or for the benefit of, the persons so interested, and thereupon the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908, shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to the application before the Commission and the order of the Commission thereon.

5 of 1908.

(3) The Commission may, after an inquiry made into the allegations made in the application filed under sub-section (1), make an order directing the owner of the undertaking or other person to make payment, to the applicant, of the amount determined by it as realisable from the undertaking or the owner thereof, or, as the case may be, from the other person, as compensation for the loss or damage caused to the applicant by reason of any monopolistic or restrictive, or unfair, trade practice carried on by such undertaking or other person.

(4) Where a decree for the recovery of any amount as compensation for any loss or damage referred to in sub-section (1) has been passed by any court in favour of any person or persons referred to in sub-section (1) or, as the case may be, sub-section (2), the amount, if any, paid or recovered in pursuance of the order made by the Commission under sub-section (3) shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, be executable for the balance, if any, left after such set off.

5 of 1908.

Enforcement of the order made by the Commission under section 12A or 12B.

12C. Every order made by the Commission under section 12A granting a temporary injunction or under section 12B directing the owner of an undertaking or other person to make payment of any amount, may be enforced by the Commission in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the Commission to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situated, or

(b) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated,

and thereupon the court to which the order is so sent shall execute the order as if it were a decree or order sent to it for execution.”.

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

“13A. (1) The Commission may, if it has any reasonable cause to believe that any person has omitted or failed to comply with any order made by it under this Act or any obligation imposed on him by or under any order made by the Commission under this Act, authorise the Director General or any officer of the Commission to make an investigation into the matter and the Director General, or the officer so authorised, may, for the purpose of making such investigation, exercise all or any of the powers conferred on the Director General by section 11.

(2) On the conclusion of the investigation, the Director General, or, as the case may be, the officer so authorised, shall submit to the Commission a report of the investigation to enable the Commission to take such action in the matter as it may think fit.”.

12. In section 14 of the principal Act, for the words “monopolistic or restrictive trade practice, or both, relating to the production, supply,”, the words, “monopolistic, restrictive, or unfair, trade practice, relating to the production, storage, supply,” shall be substituted:

13. In section 18 of the principal Act, in clause (c) of sub-section (1), the following shall be inserted at the end, namely:—

“and subject to any general or special direction given, or condition imposed, by the Commission, a member, to whom any powers or functions are so delegated, shall exercise such powers or discharge those functions in the same manner and with the same effect as if they had been conferred on such member directly by this Act and not by way of delegation and any order or other act or thing made or done by such member in pursuance of the power or function so delegated shall be deemed to be an order or other act or thing made or done, by the Commission”.

14. In section 19 of the principal Act, after the words “a restrictive trade practice”, the words “or an unfair trade practice, as the case may be,” shall be inserted.

15. In section 20 of the principal Act,—

(i) in clause (a), for the words “its own assets”, wherever they occur, the words “the assets of such undertaking” shall be, and shall be deemed always to have been, substituted;

(ii) in clause (b), and in the *Explanation*, for the words “its assets”, wherever they occur, the words “the assets of such undertaking” shall be, and shall be deemed always to have been, substituted.

Amend-
ment of
section
21.

16. In section 21 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "where an undertaking", the words "where the owner of an undertaking" shall be substituted;

(ii) for the words "expand its activities", the words "expand the activities of such undertaking" shall be substituted;

(iii) for the words "it shall", the words "such owner shall" shall be substituted;

(iv) for the words "its intention", the words "his intention" shall be substituted;

(b) in sub-section (2),—

(i) for the words "no undertaking", the words "no owner of an undertaking" shall be substituted;

(ii) for the words "any proposal for its substantial expansion", the words "any proposal for the substantial expansion of such undertaking" shall be substituted;

(c) in clause (a) of sub-section (3), for the words "call upon the undertaking", the words "call upon the owner of the undertaking" shall be substituted;

(d) for sub-section (4) and the *Explanation* thereto, the following sub-section and *Explanations* shall be substituted, namely:—

(4) Nothing in this section shall apply to any undertaking in so far as the expansion is effected by the replacement, renovation or modernisation of the whole or any part of the machinery or other equipment of the undertaking or by the installation of any balancing equipment, and if as a result of the expansion so effected, the increase in the licensed capacity of the undertaking does not exceed, in the aggregate, twenty-five per cent. of its licensed capacity before any expansion thereof.

Explanation I.—For the purposes of this sub-section "balancing equipment" means any equipment or device needed for removing any production bottleneck, and includes the installation of any equipment or device in the tool room, ancillary services or inspection department where such installation has a bearing on the quantum and quality of production to be achieved.

Explanation II.—For the purposes of this sub-section, the increase in the licensed capacity shall be deemed to be in addition to, and not in derogation of, the increase in the licensed capacity which may be made without the approval of the Central Government under the provisions of sub-section (2), read with the *Explanation* below that sub-section.

Illustration

The owner of undertaking X, having a licensed capacity of 10,000 units, proposes to make an expansion of the undertaking by the replacement, renovation or modernisation of the whole or any part of the machinery or other equipment of such undertaking or by the installation of any balancing equipment, and thereby to increase the licensed capacity of such undertaking to 14,999 units.

RECALLED

The increase in the licensed capacity of undertaking X, being below 5,000 units, the proposal for the expansion of undertaking X would not, by virtue of the combined operation of this sub-section and the *Explanation* below sub-section (2), require the approval of the Central Government under sub-section (2).

Explanation III.—References in this sub-section to licensed capacity shall, in relation to any undertaking which does not have any licensed capacity, be construed as references to production, storage, marketing, supply, distribution or control of goods, or provision of services, by, or the value of the assets of, such undertaking, as the case may be.”

17. In section 22 of the principal Act,—

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

“(1) No person or authority, other than Government, shall, after the commencement of this Act, establish—

(i) any new undertaking which, when established, would become an inter-connected undertaking of an undertaking to which this Part applies; or

(ii) add any new unit or division to an undertaking to which this Part applies,

except under, and in accordance with the previous permission of the Central Government:

Provided that except where as a result of the establishment of new undertaking, unit or division, an undertaking would come into existence to which clause (b) of section 20 would apply, no permission shall be required if the new undertaking, or, as the case may be, the new unit or division, when established, would not produce the same goods or provide the same services in relation to which the undertaking—

(a) of which such new undertaking would be an inter-connected undertaking, or

(b) to which such new unit or division is proposed to be added,

is a dominant undertaking.

(1A) No owner of any undertaking to which clause (a) of section 20 applies, shall establish except under, and in accordance with, the previous permission of the Central Government, any new undertaking for the production, storage, supply, distribution, marketing or control of any article, or for the provision of any service, for which there is no licensed capacity, and no such permission shall be granted by that Government unless the articles which are proposed to be produced, stored, supplied, distributed, marketed or controlled, or the services which are proposed to be provided, by such new undertaking are different from the articles produced, stored, supplied, distributed, marketed or controlled, or, as the case may be, services provided, by the first mentioned undertaking and the provisions of sub-sections (2) and (3) shall apply to the establishment of such new undertaking as they apply to the establishment of a new undertaking or any new unit or division referred to in sub-section (1).”;

Amend-
ment of
section
22.

(b) in sub-section (2),—

(i) for the words "new undertaking", wherever they occur, the words "new undertaking, unit or division" shall be substituted;

(ii) for the words "establishment of such undertaking", the words "establishment of such undertaking, unit or division" shall be substituted;

(iii) the words "of establishing any undertaking" shall be omitted;

(iv) for the words "the scheme of finance", the words "the value or quantity of goods that may be produced by the new undertaking, unit or division, the scheme of finance" shall be substituted;

(c) in sub-section (3), in clauses (a), (c) and (d), for the words "new undertaking", the words "new undertaking, unit or division" shall be substituted.

18. In section 23 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "Notwithstanding anything contained in any other law", the words "Notwithstanding anything contained elsewhere in this Act or in any other law" shall be substituted;

(ii) for the words "under this Act", the words "under this section" shall be substituted;

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

"(2) (a) If the owner of any undertaking to which this Part applies frames a scheme of merger or amalgamation of such undertaking with any other undertaking to which this Part applies, or

(b) if any scheme of merger or amalgamation is proposed between two or more undertakings, and, if as a result of such merger or amalgamation, an undertaking would come into existence to which clause (a) or clause (b) of section 20 would apply, the owner of the undertaking referred to in clause (a), or as the case may be, the framers of the scheme referred to in clause (b), shall, before taking any action to give effect to such scheme, make an application to the Central Government in the prescribed form with a copy of the scheme annexed thereto, for the approval of the scheme.";

(c) in sub-section (3), for the words "such inter-connected undertakings as are not dominant undertakings and as produce the same goods", the words, brackets, letters and figures "inter-connected undertakings which produce the same goods or provide the same services, and none of which is a dominant undertaking, if as a result of such merger or amalgamation, there does not come into existence any undertaking to which clause (a), or clause (b), of section 20 would apply" shall be substituted;

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

"(4) If the owner of an undertaking to which this Part

Amend-
ment of
section 23.

applies, proposes to take over the whole or part of any other undertaking, such owner shall, before giving effect to the proposal, make an application in writing to the Central Government in the prescribed form for approval of the proposal specifying therein information regarding the inter-connection of such other undertaking with any other undertaking or undertakings, the scheme of finance with regard to the proposed take over and such other information as may be prescribed:

Provided that nothing in this sub-section shall apply to the take over by the owner of an undertaking, which is not a dominant undertaking, of any other undertaking which is also not a dominant undertaking, if both the undertakings produce the same goods or provide the same services, unless as a result of such take over, an undertaking would come into existence to which clause (a), or clause (b), of section 20 would apply.”;

(e) in sub-section (5), after the words “approved by the Central Government”, the words, brackets and figure “under sub-section (8)” shall be inserted;

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

“(6) (a) On receipt of an application under sub-section (2) or, as the case may be, sub-section (4), the Central Government may, if it thinks fit, call upon the applicant to satisfy it that the proposed scheme of merger or amalgamation, or, as the case may be, the proposed take over, and the scheme of finance relating thereto, is not likely to lead to the concentration of economic power to the common detriment or is not likely to be prejudicial to the public interest in any other manner and that it is expedient in the public interest so to do, and if the Central Government is satisfied, after giving the applicant a reasonable opportunity of being heard, that it is necessary so to do, it may, by order, accord its approval to the proposal for such merger or amalgamation or, as the case may be, such take over;

(b) if the Central Government is of opinion that no such approval as is referred to in clause (a) can be given without further inquiry, it may refer the application to the Commission for an inquiry and the Commission may, after such hearing, as it may think fit, report to the Central Government, its opinion thereon.”;

(g) after sub-section (8), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this section, “take over”,—

(a) in relation to an undertaking owned by a body corporate, means the acquisition of not less than twenty-five per cent. of the voting power in relation to such body corporate;

(b) in relation to any other undertaking, includes the acquisition or control of management thereof, whether by the acquisition of the ownership of the undertaking or under any mortgage, lease or licence or under any agreement or other arrangement’;

(h) sub-section (9) shall be omitted.

REPEALED

232

Monopolies and Restrictive Trade Practices (Amendment)

[ACT 30]

Amend-
ment of
section
24.

19. In section 24 of the principal Act,—

(i) for the words "the undertaking concerned", the words "the owner of the undertaking concerned" shall be substituted;

(ii) for the words "to divest itself", the words "to divest himself" shall be substituted.

Amend-
ment of
section 25.

20. In section 25 of the principal Act, in sub-section (4), for the words "partners of any firm which is an undertaking within the meaning of this Act", the words and brackets "partners of any firm or the members of the managing or executive committee (by whatever name called) of any other association of individuals, whether incorporated or not, owning an undertaking within the meaning of this Act" shall be substituted.

Amend-
ment of
section 26.

21. In section 26 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "Every undertaking", the words "The owner of every undertaking" shall be substituted;

(ii) for the words "at the commencement of this Act", the words, brackets and figures "at the commencement of the Monopolies and Restrictive Trade Practices (Amendment) Act, 1984" shall be substituted;

(iii) for the words "for its registration as such undertaking", the words "for the registration of such undertaking as an undertaking to which that Part applies" shall be substituted;

(b) in sub-section (3), for the words "Any undertaking", the words "The owner of any undertaking" shall be substituted;

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

"(4) For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to an undertaking which was registered under this section before the commencement of the Monopolies and Restrictive Trade Practices (Amendment) Act, 1984 and, accordingly, fresh registration, under this section, of such undertaking shall not be necessary."

Insertion
of new
sections
27A and
27B.

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

Power of
the
Central
Govern-
ment to
direct
sever-
ance of
inter-
con-
nection
between
under-
takings.

27A. (1) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, the Central Government may, if it is of opinion that the continuance of interconnection of an undertaking (hereafter in this section referred to as the principal undertaking) with any other undertaking to which Part A of this Chapter applies, is detrimental to—

- (a) the interests of the principal undertaking; or
- (b) the future development of the principal undertaking; or
- (c) the steady growth of the industry to which the principal undertaking pertains; or
- (d) the public interest,

~~REPEALED~~

refer the matter to the Commission for an inquiry as to whether it is expedient in the public interest to make an order for the severance of such inter-connection on one or more of the grounds aforesaid, and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon and shall, where it is of opinion that the severance of the inter-connection of the principal undertaking with any other undertaking ought to be made, include in its report a scheme with respect to such severance, providing there in for the matters specified in sub-section (2).

(2) Where, in any such report, the Commission recommends the severance of any such inter-connection, the scheme with respect thereto shall provide for the following matters, namely:—

(a) the manner in which, and the period within which, the severance of such inter-connection is to be effected;

(b) the appropriation or transfer of any share or other interest held by the owner in, or in relation to, the principal undertaking, in the other undertaking or the termination of any office or employment in such undertaking, which may be required for effecting the severance of such inter-connection;

(c) compensation, if any, payable for the severance of such inter-connection; and

(d) such incidental, consequential and supplemental matters, as may be necessary to secure the severance of such inter-connection.

(3) If the Commission so recommends, the Central Government may, notwithstanding anything contained in any other law for the time being in force, by an order in writing, direct the severance of inter-connection between the undertakings, as far as may be, in accordance with the scheme included in the report of the Commission.

(4) Where the Central Government makes, or intends to make, an order for any purpose mentioned in sub-section (3), it may, with a view to achieving that purpose, prohibit or restrict the doing of anything that might impede the operation or making of the order and may impose on any person such obligations as to the carrying on of any activities or the safeguarding of any assets, as it may think fit, or it may, by order, provide for the carrying on of any activities or safeguarding of any assets either by the appointment of a person to conduct, or supervise the conduct of, any such activities or in any other manner.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract or in any memorandum or articles of association, an officer of a company who ceases to hold office as such in consequence of the severance of inter-connection between undertakings shall not be entitled to claim any compensation for such cesser.

Explanation.—For the purposes of this section, “inter-connection” means inter-connection of an undertaking with any other undertaking in any manner specified in clause (g) of section 2.

~~REPEALED~~

Manner
in which
order
made
under
section
27 or
section
27A
shall be
carried
out.

27B. (1) Where in any report made by it, whether under section 27 or section 27A, the Commission recommends that the division of any trade of any undertaking or division of any undertaking or undertakings or of inter-connected undertakings, or, as the case may be, the severance of inter-connection between two or more undertakings, is to be effected by—

(a) the disinvestment by any person holding any share in the body corporate owning such undertaking or undertakings; or

(b) the sale of the whole or any part of such undertaking or undertakings, or, of any part of the assets thereof,

the Central Government may, in its order under the said section 27 or section 27A, specify that such disinvestment of shares or the sale of the whole or part of the undertaking or undertakings or of such assets, as the case may be, shall be effected within such period and in such one or more of the following methods as may be specified in such order, namely:—

(i) by directing the person holding such shares to make a public offer for the sale of such number of shares held by him in the body corporate owning the undertaking or undertakings, as may be specified in the order; or

(ii) by directing the body corporate owning the undertaking to make further issue of equity capital to the members of the public except to the person who is directed to disinvest the shares held by him in such body corporate; or

(iii) by directing that the sale of the undertaking or any part thereof, or, as the case may be, of such assets, be made by public auction; or

(iv) by such other prescribed method as the Central Government may specify:

Provided that the Central Government may extend on its own motion or on the application of the person concerned and for sufficient cause, the period specified as aforesaid in any order made by it under section 27 or section 27A by another order.

(2) Every order of the Central Government referred to in sub-section (1), shall have effect notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in the memorandum or articles of association of the body corporate owning the undertaking.

(3) Where any person who has been directed to do so by an order referred to in sub-section (1), omits or fails to disinvest any share or block of shares specified in the said order, the body corporate in which such shares are held shall not permit such person or his nominee or proxy to exercise any voting or other rights attaching to such share or block of shares.'

23. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter
III-A.

'CHAPTER III-A'

RESTRICTIONS ON THE ACQUISITION AND TRANSFER OF SHARES OF, OR BY, CERTAIN BODIES CORPORATE

30A. The provisions of this Chapter shall apply to the acquisition or transfer of shares or share capital by, or to, an individual, firm, group constituent of a group, body corporate, or bodies corporate under the same management, who or which,—

Application
of
Chapter.

(a) is the owner in relation to an undertaking to which Part A of Chapter III applies, or

(b) would be, as a result of such acquisition or transfer of shares or share capital, the owner of an undertaking to which Part A of Chapter III applies, or would apply.

30B. (1) Except with the previous approval of the Central Government, no individual, firm, group, constituent of a group, body corporate or bodies corporate under the same management, shall jointly or severally acquire or agree to acquire, whether in his or its own name or in the name of any other person, any equity shares in a public company, or a private company which is a subsidiary of a public company, if the total nominal value of the equity shares intended to be so acquired exceeds, or would, together with the total nominal value of any equity shares already held in the company by such individual, firm, group, constituent of a group, body corporate, or bodies corporate under the same management, exceed twenty-five per cent. of the paid-up equity share capital of such company.

Restrictions
on
the
acquisition
of certain
shares.

(2) Where any individual, firm, group, constituent of a group, body corporate, or bodies corporate under the same management (hereafter in this Chapter referred to as the acquirer), is prohibited, by subsection (1), from acquiring or agreeing to acquire except with the previous approval of the Central Government, any share of a public company or a private company which is a subsidiary of a public company, no—

(a) company in which not less than fifty-one per cent. of the share capital is held by the Central Government; or

(b) corporation (not being a company) established by or under any Central Act; or

(c) financial institution,

shall transfer or agree to transfer any share to such acquirer unless such acquirer has obtained the previous approval of the Central Government for the acquisition, or agreement for the acquisition, of such share.

REPEALED

236

Monopolies and Restrictive Trade Practices (Amendment)

[ACT 30]

Restriction on transfer of shares.

30C. (1) Every body corporate, or bodies corporate under the same management, holding, whether singly or in the aggregate, ten per cent. or more of the nominal value of the subscribed equity share capital of any other company, shall, before transferring one or more of such shares, give to the Central Government an intimation of its or their proposal to transfer such share, and every such intimation shall include a statement as to the particulars of the share proposed to be transferred, the name and address of the person to whom the share is proposed to be transferred, the share holding, if any, of the proposed transferee in the concerned company and such other particulars as may be prescribed.

(2) Where, on receipt of an intimation given under sub-section (1) or otherwise, the Central Government is satisfied that as a result of such transfer, a change in the composition of the Board of directors of the company is likely to take place and that such change would be prejudicial to the interests of the company or to the public interest, it may by order, direct that—

(a) no such share shall be transferred to the proposed transferee:

Provided that no such order shall preclude the body corporate or, bodies corporate from intimating, in accordance with the provisions of sub-section (1), to the Central Government its or their proposal to transfer the share to any other person, or

(b) where such share is held in a company engaged in any industry specified in the Schedule, such share shall be transferred to the Central Government or to such corporation owned or controlled by that Government as may be specified in the direction.

(3) Where a direction is made by the Central Government under clause (b) of sub-section (2), the share referred to in such direction shall stand transferred to the Central Government or to the corporation specified therein, and the Central Government or the specified corporation, as the case may be, shall pay, in cash, to the body corporate or bodies corporate from which such share stands transferred, an amount equal to the market value of such share, within the time specified in sub-section (4).

Explanation.—In this sub-section “market value” means, in the case of a share which is quoted on any recognised stock exchange, the value quoted at such stock exchange on the date immediately preceding the date on which the direction is made, and, in any other case, such value as may be mutually agreed upon between the holder of the share and the Central Government or the specified corporation, as the case may be, or in the absence of such agreement, as may be determined by the Court.

(4) The market value referred to in sub-section (3) shall be given forthwith, where there is no dispute as to such value or where such value has been mutually agreed upon, but where there is a dispute as to the market value, such value as is estimated by the Central Government or the corporation, as the case may be, shall be given forthwith and the balance, if any, shall be given within thirty days from the date when the market value is determined by the Court.

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(5) If the Central Government does not make any direction under sub-section (2) within sixty days from the date of receipt by it of the intimation, given under sub-section (1), the provisions contained in sub-section (2) with regard to the transfer of such share shall not apply.

30D. No body corporate, or bodies corporate under the same management, which holds, or hold in the aggregate, ten per cent., or more of the nominal value of the equity share capital of a foreign company, having an established place of business in India, shall transfer any share in such foreign company to any citizen of India or any body corporate incorporated in India except with the previous approval of the Central Government and such previous approval shall not be refused unless the Central Government is of opinion that such transfer would be prejudicial to the public interest.

Restriction
on the
transfer of
shares of
foreign
companies.

30E. (1) Where the Central Government is satisfied that as a result of the transfer of any share or block of shares of a company, a change in the controlling interest of the company is likely to take place and that such change would be prejudicial to the interests of the company or to the public interest, that Government may direct the company not to give effect to the transfer of any such share or block of shares and—

Power
of the
Central
Govern-
ment to
direct
companies
not to
give
effect to
the
transfer.

(a) where the transfer of such share or block of shares has already been registered, not to permit the transferee or any nominee or proxy of the transferee, to exercise any voting or other rights attaching to such share or block of shares, and

(b) where the transfer of such share or block of shares has not been registered, not to permit any nominee or proxy of the transferor to exercise any voting or other rights attaching to such share or block of shares.

(2) Where any direction is made by the Central Government under sub-section (1), the share or the block of shares referred to therein shall stand retransferred to the person from whom it was acquired, and thereupon the amount paid by the transferee for the acquisition of such share or block of shares shall be refunded to him by the person to whom such share or block of shares stands or stand retransferred.

(3) If the refund referred to in sub-section (2) is not made within the period of thirty days from the date of the direction referred to in sub-section (1), the Central Government shall, on the application of the person entitled to get the refund, direct, by order, the refund of such amount and such order may be enforced as if it were a decree made by a civil court.

(4) The person to whom any share or block of shares stands or stand retransferred under sub-section (2) shall, on making refund under sub-section (2) or sub-section (3), be eligible to exercise voting or other rights attaching to such share or block of shares.

30F. Every request made to the Central Government for according its approval to the proposal for the acquisition of any share referred to in section 30B or the transfer of any share referred to in section 30D shall be presumed to have been granted unless, within a period of sixty days from the date of receipt of such request, the Central Government communicates to the person by whom the request was made, that the approval prayed for cannot be granted.

Time with-
in which
refusal to
be commu-
nicated,

REPEALED

Nothing in sections 30B to 30E to apply to Government companies, etc.

Amend-
ment of
section
31.

30G. Nothing contained in section 30B [except sub-section (2) thereof] shall apply to the transfer of any share to, and nothing in section 30C, section 30D or section 30E shall apply to the transfer of any share by,—

- (a) any company in which not less than fifty-one per cent. of the share capital is held by the Central Government;
- (b) any corporation (not being a company) established by or under any Central Act;
- (c) any financial institution.'

24. In section 31 of the principal Act,—

(a) in sub-section (1), for the words "one or more monopolistic undertakings are indulging in any monopolistic trade practice", the words "the owners of one or more undertakings are indulging in any practice, which is, or may be, a monopolistic trade practice" shall be substituted;

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

"Provided that where the Commission receives any information, or comes to know, that the owner of any undertaking is, or, the owners of two or more undertakings are, indulging in any trade practice, which is, or may be, a monopolistic trade practice, or that monopolistic trade practices prevail in respect of any goods or services, it may on its own motion, and notwithstanding that no reference has been made to it by the Central Government under this sub-section, make an inquiry into the matter.";

(c) in sub-section (2), after the words "or is likely to operate against the public interest," the words "it shall make a report to the Central Government as to its findings thereon and on receipt of such report," shall be inserted;

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

"(2A) If any such report contains a finding of the Commission to the effect that the owner of any undertaking is, or, the owners of two or more undertakings are indulging in any monopolistic trade practice, or that monopolistic trade practice prevails in respect of any goods or services, and the Central Government is satisfied that it is necessary to take steps to remedy or prevent any mischief which result or may result from such monopolistic trade practice, and that such monopolistic trade practice does not fall within any of the exceptions specified in section 32, it may, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, make such orders as it may think fit,—

(a) prohibiting the owner of the concerned undertaking or the owners of the concerned undertakings, as the case may be, from continuing to indulge in such monopolistic trade practice; or

(b) prohibiting the owners of any class of undertakings or undertakings generally, from continuing to indulge in any monopolistic trade practices in relation to such goods or services, and

may also make such other orders as it may think fit to remedy or prevent any mischief which results, or may result, from the continuation of monopolistic trade practices in relation to the goods and services aforesaid.”;

(e) in sub-section (3),—

(i) for the words “Any order made by the Central Government under this section may include an order”, the words, brackets, figure and letter “Without prejudice to the generality of the powers conferred by sub-section (2A), any order made by the Central Government under this section may also include an order” shall be substituted;

(ii) in clauses (a) and (b), for the words “production, supply”, the words “production, storage, supply” shall be substituted;

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

“(f) regulating the profits which may be derived from the production, storage, supply, distribution or control of goods or from the provision of any service;

(g) regulating the quality of any goods or the provision of any service so that the standards thereof may not deteriorate.”;

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

“(4) Whenever any order is made by the Central Government under sub-section (2A) prohibiting the owner of any undertaking or class of undertakings or undertakings generally from continuing to indulge in any monopolistic trade practice,—

(a) the owner of any undertaking or the owners of undertakings of any class, as the case may be, shall, within thirty days from the date of receipt of such order (or within such further time as the Central Government may, on sufficient cause being shown, allow) communicate to the Central Government his or their compliance with the order; and

(b) the Director General shall within ninety days from the date of such order (or from the expiry of the further time allowed by the Central Government) inform the Central Government, whether the order made by it has been complied with, and where the Director General has any reason to believe that any such order has been, or is being, contravened by the owner of any undertaking, he shall inform the Central Government about the particulars of the owner of such undertaking, to enable that Government to take such action, under this Act, as it may think fit.”.

REPEALED

240

Monopolies and Restrictive Trade Practices (Amendment)

[ACT 30]

Substitution
of section
32.

Monopolistic
trade
practice to
be deemed
to be pre-
judicial to
the public
interest
except in
certain
cases.

25. For section 32 of the principal Act, the following section shall be substituted, namely:—

“32. For the purposes of this Act, every monopolistic trade practice shall be deemed to be prejudicial to the public interest, except where—

(a) such trade practice is expressly authorised by any enactment for the time being in force; or

(b) the Central Government, being satisfied that any such trade practice is necessary—

(i) to meet the requirements of the defence of India or any part thereof, or for the security of the State; or

(ii) to ensure the maintenance of supply of goods and services essential to the community; or

(iii) to give effect to the terms of any agreement to which the Central Government is a party,

by a written order, permits the owner of any undertaking to carry on any such trade practice.”

Substitution
of
heading and
insertion
of sub-
heading in
Chapter V.

26. In Chapter V of the principal Act,—

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

“RESTRICTIVE TRADE PRACTICES AND UNFAIR TRADE PRACTICES”;

(ii) below the said heading, the following word, letter and sub-heading shall be inserted, namely:—

“PART A

Registration of Agreements Relating to Restrictive Trade Practices”.

Amend-
ment of
section 33.

27. In section 33 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening portion for the words “Any agreement relating to a restrictive trade practice falling within one or more of the following categories shall be subject to registration”, the words “Every agreement falling within one or more of the following categories shall be deemed, for the purposes of this Act, to be an agreement relating to restrictive trade practices and shall be subject to registration” shall be substituted;

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

“(ja) any agreement restricting in any manner, the class or number of wholesalers, producers or suppliers from whom any goods may be bought;

(jb) any agreement as to the bids which any of the parties thereto may offer at an auction for the sale of goods or any agreement whereby any party thereto agrees to abstain from bidding at any auction for the sale of goods;”;

(b) in sub-section (2), for the words “production, supply”, the words “production, storage, supply” shall be substituted.

28. Section 34 of the principal Act shall be omitted.

Omission
of section
34.

29. In *Explanation I* to section 35 of the principal Act, for the words “production, supply”, the words “production, storage, supply” shall be substituted.

Amend-
ment of
section
35.

30. In Chapter V of the principal Act, after section 36, the following Part shall be inserted, namely:—

Insertion
of new
Part B in
Chap-
ter V.

PART B
Unfair Trade Practices

36A. In this Part, unless the context otherwise requires, “unfair trade practice” means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts one or more of the following practices and thereby causes loss or injury to the consumers of such goods or services, whether by eliminating or restricting competition or otherwise, namely:—

Definition
of unfair
trade
practice.

(1) the practice of making any statement, whether orally or in writing or by visible representation which,—

(i) falsely represents that the goods are of a particular standard, quality, grade, composition, style or model;

(ii) falsely represents that the services are of a particular standard, quality or grade;

(iii) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;

(iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;

(v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;

(vii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof:

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(viii) makes to the public a representation in a form that purports to be—

(i) a warranty or guarantee of a product or of any goods or services; or

REPEALED

242

Monopolies and Restrictive Trade Practices (Amendment)

FACT 30

(ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,

if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

(ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been, or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

(x) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation.—For the purposes of clause (1), a statement that is—

(a) expressed on an article offered or displayed for sale, or on its wrapper or container; or

(b) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale, or

(c) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public,

shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(2) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation.—For the purpose of clause (2), "bargain price" means—

(a) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or

(b) a price that a person who reads, hears, or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

(3) permits—

(a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating the impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole;

(b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;

(4) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale, or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.

36B. The Commission may inquire into any unfair trade practice,—

(a) upon receiving a complaint of facts which constitutes such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers; or

(b) upon a reference made to it by the Central Government or a State Government;

(c) upon an application made to it by the Director General; or

(d) upon its own knowledge or information.

36C. In respect of any unfair trade practice of which complaint is made under clause (a) of section 36B, the Commission shall, before issuing any process requiring the attendance of the person complained against, cause a preliminary investigation to be made by the Director General, in such manner as it may direct, for the purpose of satisfying itself that the complaint requires to be inquired into.

36D. (1) The Commission may inquire into any unfair trade practice which may come before it for inquiry and, if, after such inquiry, it is of opinion that the practice is prejudicial to the public interest, or to the interest of any consumer or consumers generally, it may, by order direct that—

(a) the practice shall be discontinued or shall not be repeated; and

(b) any agreement relating to such unfair trade practice shall be void or shall stand modified in respect thereof in such manner as may be specified in the order.

Inquiry
into
unfair
trade prac-
tices by
Commis-
sion.

Investi-
gation by
Director
General
before an
issue of
process in
certain
cases.

Powers
which
may be
exercised
by the
Commis-
sion in-
quiring
into an
unfair
trade
practice.

REPEALED

244

Monopolies and Restrictive Trade Practices (Amendment)

[ACT. 30]

(2) The Commission may, instead of making any order under this section, permit any party to carry on any trade practice, if it so applies and takes such steps within the time specified by the Commission as may be necessary to ensure that the trade practice is no longer prejudicial to the public interest or to the interest of any consumer or consumers generally, and, in any such case, if the Commission is satisfied that necessary steps have been taken within the time so specified, it may decide not to make any order under this section in respect of that trade practice.

(3) No order shall be made under sub-section (1) in respect of any trade practice which is expressly authorised by any law for the time being in force.

Power relating to restrictive trade practices may be exercised or performed in relation to unfair trade practices.

Amendment of section 37.

Amendment of section 38.

Amendment of section 39.

Amendment of section 43.

Amendment of section 44.

36E. Without prejudice to the provisions of section 12A, section 12B and section 36D, the Commission, Director General or any other person authorised in this behalf by the Commission or Director General, may exercise, or perform, in relation to any unfair trade practice, the same power or duty which it or he is empowered, or required, by or under this Act to exercise, or perform, in relation to a restricted trade practice.

31. In sub-section (4) of section 37 of the principal Act,—

- (i) for the words “a monopolistic undertaking is indulging in restrictive trade practices”, the words “the owner of any undertaking is indulging in monopolistic trade practices” shall be substituted;
- (ii) the words “with regard to any monopolistic trade practice” shall be omitted.

32. In sub-section (1) of section 38 of the principal Act,—

(i) in clause (g), the word “or”, occurring at the end, shall be omitted;

(ii) after clause (h), the following clauses shall be inserted, namely:—

“(i) that such restriction has been expressly authorised and approved by the Central Government;

(j) that such restriction is necessary to meet the requirements of the defence of India or any part thereof, or for the security of the State; or

(k) that the restriction is necessary to ensure the maintenance of supply of goods and services essential to the community.”.

33. In the proviso to sub-section (3) of section 39 of the principal Act, for the words “trade mark by a licensee under any such licence”, the words “trade mark or by a licensee of patent or trade mark” shall be substituted.

34. In section 43 of the principal Act, for the words “call upon any undertaking”, the words “call upon the owner of any undertaking” shall be substituted.

35. In section 44 of the principal Act, in sub-section (1), for the words “or restrictive trade practice”, the words “or restrictive, or unfair, trade practice” shall be substituted.

36. In section 45 of the principal Act,—

Amend-
ment of
section 45.

- (i) after the words "he shall be punishable", the words "with imprisonment for a term which may extend to five years, or" shall be inserted;
- (ii) for the words "rupees one lakh", the words "rupees one lakh, or with both" shall be substituted.

37. In section 46 of the principal Act,—

Amend-
ment of
section 46.

- (i) after the words "he shall be punishable", the words "with imprisonment for a term which may extend to five years, or" shall be inserted;
- (ii) after the words "rupees one lakh", the words "or with both," shall be inserted.

38. In section 47 of the principal Act,—

Amend-
ment of
section 47.

- (i) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;
- (ii) for the words "two hundred rupees", the words "five hundred rupees" shall be substituted.

39. In section 48 of the principal Act,—

Amend-
ment of
section 48.

(1) in sub-section (1),—

- (a) after the words "he shall be punishable", the words "with imprisonment for a term which may extend to three years, or" shall be inserted;

(b) after the words "five thousand rupees", the words "or with both," shall be inserted;

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

"(2) If the owner of any undertaking, to which Part A of Chapter III applies, fails without any reasonable excuse, to make an application under section 26 for the registration of the undertaking as an undertaking to which that Part applies, then—

(a) where the undertaking is owned by a company,—

(i) the company shall be punishable with fine which may extend to one thousand rupees, and where the offence is a continuing one, with a further fine which may extend to fifty rupees for every day, after the first, during which such failure continues, and

(ii) every officer of the company in default shall be punishable with imprisonment for a term which may extend

to two years or with fine which may extend to one thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to fifty rupees for every day, after the first, during which such failure continues;

(b) where the undertaking is owned by a firm, every partner of such firm; or where the undertaking is not owned either by a company or by a firm, every person who owns or controls the undertaking, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to fifty rupees for every day, after the first, during which such failure continues.”.

Insertion
of new
sections
48A, 48B
and 48C.

40. After section 48 of the principal Act, the following sections shall be inserted, namely:—

Penalty
for con-
travention
of order
made
under
section
27B or
for pos-
session
of pro-
perty sold
to any
person
under
section
27B.

48A. Any person or body corporate who or which,—

(a) being required by any order of the Central Government referred to in sub-section (1) of section 27B to effect disinvestment of any shares or sale of the whole or any part of any undertaking or undertakings by any method referred to in that sub-section, omits or fails to do so; or

(b) having in his possession, custody or control any property or assets or any part thereof which have been sold to any person in pursuance of an order of the Central Government referred to in sub-section (1) of section 27B (hereinafter in this section referred to as the “purchaser”), wrongfully withholds such property, assets or part thereof from the purchaser; or

(c) wrongfully obtains possession of any property, assets or any part thereof or retains any property, assets or any part thereof, which have been sold in pursuance of an order of the Central Government referred to in sub-section (1) of section 27B; or

(d) withholds or fails to furnish to the purchaser, any document in his possession, custody or control relating to the property, or any part or assets thereof, which have been sold in pursuance of an order of the Central Government referred to in sub-section (1) of section 27B; or

(e) fails to deliver to the purchaser the property, or any part or assets thereof which have been sold in pursuance of an order of the Central Government referred to in sub-section (1) of section 27B, or any books of account, registers and other documents in his possession, custody or control relating to such property, or any part or assets thereof; or

(f) wrongfully removes or destroys any property or assets which have been sold in pursuance of an order of the Central Government referred to in sub-section (1) of section 27B; or

(g) prefers any claim, in relation to the property, or any part or assets thereof which have been sold in pursuance of an order of the Central Government referred to in sub-section (1) of section 27B, 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 and also with fine which may extend to ten thousand rupees.

48B. (1) Any person who acquires any share in contravention of the provisions of section 30B 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.

(2) (a) Every body corporate which makes any transfer of shares without giving any intimation as required by section 30C, shall be punishable with fine which may extend to five thousand rupees.

(b) Where any contravention of the provisions of section 30C has been made by a company, every officer of the company who is in default 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.

(3) (a) Every body corporate which makes any transfer of shares in contravention of the provisions of section 30D, shall be punishable with fine which may extend to five thousand rupees.

(b) Where any contravention of the provisions of section 30D has been made by a company, every officer of the company who is in default 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.

(4) (a) Every person who transfers any share in contravention of any order made by the Central Government under section 30C, or gives effect to any transfer of shares made in contravention of any direction made by the Central Government under section 30E, or who exercises any voting right in respect of any share in contravention of any order of the Central Government referred to in sub-section (1) of section 27B or in contravention of any direction made by the Central Government under section 30E, shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine.

(b) If any company gives effect to any voting or other right exercised in relation to any share held in contravention of an order of the Central Government referred to in sub-section (1) of section 27B or in relation to any share acquired in contravention of the provisions of section 30C, or which gives effect to any voting right in contravention of any direction made by the Central Government under section 30E, the company shall be punishable with fine which may extend to five thousand rupees, and every officer of the company who is in default 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.

Penalty for acquisition or transfer of share in contravention of section 27B, 30B, 30C, 30D or 30E.

Penalty
for contravention of
order made
by Commission
relating
to unfair
trade
practices.

Amend-
ment of
section
49.

Amend-
ment of
section 50.

48C. If any person contravenes any order made by the Commission under section 36D, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.'

41. In sub-section (1) of section 49 of the principal Act, for the words "to furnish any information", the words and figures "to produce any books or papers, or to furnish any information, required by the Director General under section 11, or to furnish any information" shall be substituted.

42. Section 50 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered,—

(i) for the words and figures "If any person contravenes any order made under section 13 or section 31 or section 37", the words and figures "A person who is deemed, under section 13, to be guilty of an offence under this Act" shall be substituted;

(ii) for the words "six months", the words "one year" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) If any person contravenes, without any reasonable excuse, any order made by the Central Government under section 31, or any order made by the Commission under section 37, he shall be punishable with imprisonment for a term which shall not be less than,—

(a) in the case of the first offence, six months but not more than two years, and

(b) in the case of any second or subsequent offence in relation to the goods or services in respect of which the first offence was committed, two years but not more than five years,

and, in either case, where the contravention is a continuing one, also with fine which may extend to five hundred rupees for every day, after the first, during which such contravention continues:

Provided that the court may, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment for a term lesser than the minimum term specified in this sub-section.

(3) If any person carries on any trade practice which is prohibited by this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day, after the first, during which such contravention continues."

~~REPEALED~~

of 1984]

Monopolies and Restrictive Trade Practices (Amendment)

249

43. After section 52 of the principal Act, the following sections shall be inserted, namely:—

"52A. If any person contravenes, without any reasonable excuse, any condition or restriction subject to which any approval, sanction, direction or exemption in relation to any matter has been accorded, given, made or granted under this Act, he shall be punishable with fine which may extend to one thousand rupees, and where the contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day, after the first, during which such contravention continues.

52B. If in any application, return, report, certificate, balance sheet, prospectus, statement or other document made, submitted, furnished or produced for the purpose of any provision of this Act, any person makes a statement,—

(a) which is false in any material particular, knowing it to be false, or

(b) which omits to state any material fact, knowing it to be material,

he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine".

44. In section 55 of the principal Act,—

(a) for the words and figures "any order made by the Central Government under Chapter III", the words, brackets, letters and figures "any decision on any question referred to in clause (a), clause (b) or clause (c) of section 2A, or any order made by the Central Government under Chapter III" shall be substituted;

(b) for the words and figures "section 13 or section 37", the words, figures and letter "section 13 or section 36D or section 37" shall be substituted.

45. In section 56 of the principal Act, for the words "Presidency Magistrate or a Magistrate of the first class", the words "Court of Session" shall be substituted.

46. Section 58 of the principal Act shall be omitted.

47. In section 60 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The provisions of sub-section (2) relating to the disclosure of information shall not extend to the disclosure of the source of such information, except where the disclosure of such source is required by any court, tribunal or other authority."

48. In section 61 of the principal Act, for the words "restrictive trade practices", the words "restrictive or unfair trade practices" shall be substituted.

Insertion
of new
sections
52A
and 52B.

Penalty
for con-
travention
of any
condition
or restric-
tion, etc.

Penalty
for making
false
statement
in applica-
tion,
returns,
etc.

Amend-
ment of
section 55.

Amend-
ment of
section 56.

Omission
of section
58.

Amend-
ment of
section 60.

Amend-
ment of
section 61.

Amend-
ment of
section
66.

Amend-
ment of
section
67.

49. In section 66 of the principal Act, in sub-section (2), clause (d) shall be omitted.

50. In section 67 of the principal Act, in sub-section (2),—

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

"(aa) the form in which an application shall be made to the Central Government under section 23 for the approval of any scheme of merger or amalgamation of an undertaking with any other undertaking;";

(ii) after clause (b), the following clause shall be inserted, namely:—

"(ba) the particulars which may be required to be specified in any intimation to the Central Government with regard to the transfer of shares;";

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

"(ca) the duties and functions of the Director General;"

(iv) in clause (d), the words "by the Registrar" shall be omitted;

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

"(da) the manner in which every authenticated copy of any order made by the Commission in respect of any restrictive, or unfair, trade practice shall be recorded;".

Insertion
of
Schedule.

51. After section 67 of the principal Act, the following Schedule shall be inserted, namely:—

THE SCHEDULE

(See section 30C)

PART I

1. Aircraft.
2. Air transport.
3. Arms and ammunition and allied items of defence equipment.
4. Atomic energy.
5. Coal and lignite.
6. Generation and distribution of electricity.
7. Heavy castings and forgings of iron and steel.
8. Heavy electrical plant including large hydraulic and steam turbines.
9. Heavy plant and machinery required for iron and steel production, for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government.
10. Iron and steel.
11. Mineral oils.
12. Minerals specified in the Schedule to the Atomic Energy (Control of Production and Use) Order, 1953.

13. Mining and processing of copper, lead, zinc, tin, molybdenum and wolfram.
14. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond.
15. Railway transport.
16. Ship-building.
17. Telephones and telephone cables, telegraph and wireless apparatus (excluding radio receiving sets).

PART II

1. Aluminium and other non-ferrous metals not included in Part I.
2. All other minerals except "minor minerals" as defined in section 3 of the Mines and Minerals (Regulation and Development) Act, 1957.
3. Antibiotics and other essential drugs.
4. Basic and intermediate products required by chemical industries such as the manufacture of drugs, dyestuffs and plastics.
5. Carbonisation of coal.
6. Chemical pulp.
7. Ferro alloys and tool steels.
8. Fertilizers.
9. Machine tools.
10. Road transport.
11. Sea transport.
12. Synthetic rubber.

PART II

AMENDMENTS TO THE COMPANIES ACT, 1956

1 of 1956. 52. In the Companies Act, 1956,—

- (a) in section 2, clause (18A) and the *Explanation thereto* shall be omitted;
- (b) sections 108A to 108H shall be omitted;
- (c) Schedule XIII shall be omitted.

Omission of section 2(18A), sections 108A to 108H and schedule XIII.

THE VISVA-BHARATI (AMENDMENT) ACT, 1984

No. 31 OF 1984

[21st May, 1984.]

An Act further to amend the Visva-Bharati Act, 1951.

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

Short title and commencement.

1. (1) This Act may be called the Visva-Bharati (Amendment) Act, 1984.

Substitution of certain expressions for certain other expressions.

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

Substitution of new section for section 3.

2. Throughout the Visva-Bharati Act, 1951 (hereinafter referred to as the principal Act), and in all Statutes made thereunder, unless otherwise expressly provided—

29 of 1951.

(a) for the words and brackets "Bhavana (College)", the word "Bhavana" shall be substituted;

(b) for the word "teacher", the word "adhyapaka" shall be substituted.

Definitions.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

3. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

(a) "academic staff" means such categories of staff as are designated as academic staff by the Statutes;

(b) "Acharya (Chancellor)" and "Upacharya (Vice-Chancellor)" mean, respectively, the Acharya (Chancellor) and the Upacharya (Vice-Chancellor) of the University;

¹ 8 LR August 1984, Vide Notification No. S.O. 584 (E) dated 7-8-1984, Gazette of India Extraordinary, 1984, Part II, Section 3 (ii).

² Repealed by Act 19 of 1988, ²⁵² s. 2, Sch. I.

- (c) "adhyapaka" includes a Professor, Reader, Lecturer and any other person engaged in imparting instruction in relation to any learning process and designated as an *adhyapaka* by the Ordinances;
- (d) "Alumni Association" means the Association of the Alumni of the University, constituted under the provisions of this Act and the Statutes;
- (e) "approved institution" means an institution (not being an institution maintained by the University) of higher learning or studies approved by the University;
- (f) "Bhavana" means an academic institution maintained by the University and named as such;
- (g) "campus" means a unit established or constituted by the University for imparting instruction or supervising research, or both;
- (h) "Chatravasa" means a unit of residence, or of corporate life, for the students of the University provided, maintained or recognised by the University;
- (i) "Department" means a Department of Studies and includes a centre of studies established by, or under, the Statutes;
- (j) "employee of the University" means any person appointed by the University or any Institution, and includes an employee of a *Bhavana*;
- (k) "Institute Board" means a Board constituted by the University for the management of an Institute;
- (l) "Institution" means an institution maintained by the University;
- (m) "Karma-Samiti (Executive Council)" means the Karma-Samiti (Executive Council) of the University;
- (n) "Patha-Samiti (Board of Studies)" means a Board constituted by the University for the regulation of studies;
- (o) "prescribed" means prescribed by the Statutes, Ordinances or Regulations;
- (p) "Samsad (Court)" means the Samsad (Court) of the University;
- (q) "Siksha-Samiti (Academic Council)" means the Siksha-Samiti (Academic Council) of the University;

(r) "Statutes", "Ordinances" and "Regulations" mean, respectively, such Statutes, Ordinances and Regulations of the University as are for the time being in force;

(s) "University" means the institution known as Visva-Bharati and incorporated as a University under this Act.'

Insertion
of new
sections
5A and
5B.

The
objects
of the
Uni-
versity.

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

"5A. (1) The objects of the University shall be to disseminate and advance knowledge and understanding by providing instructional, extension and research facilities and by the example and influence of its corporate life, and the University shall, in organising its activities, have due regard to the following objects for which the Visva-Bharati at Santiniketan was founded by Rabindranath Tagore, as expressed in his own words, namely:—

(i) to study the mind of Man in its realisation of different aspects of truth from diverse points of view;

(ii) to bring into more intimate relations with one another, through patient study and research, the different cultures of the East on the basis of their underlying unity;

(iii) to approach the West from the standpoint of such a unity of the life and thought of Asia;

(iv) to seek to realise in a common fellowship of study the meeting of the East and the West, and thus ultimately to strengthen the fundamental conditions of world peace through the establishment of free communication of ideas between the two hemispheres; and

(v) with such ideals in view to provide at Santiniketan aforesaid a Centre of Culture where research into and study of the religion, literature, history, science and art of Hindu, Buddhist, Jain, Islamic, Sikh, Christian and other civilisations may be pursued along with the culture of the West, with that simplicity in externals which is necessary for true spiritual realisation in amity, good fellowship and co-operation between the thinkers and scholars of both Eastern and Western countries, free from all antagonisms of race, nationality, creed or caste and in the name of the One Supreme Being who is Shantam, Shivam, Advaitam.

(2) The objects of the University shall also include harmonising the cultures of India, the East and the West by, among other things, the admission of students and appointment of *adhyapakas* from various regions of India and various countries of the world, and by providing incentives therefor.

5B. The University shall, in organising its activities and the implementation of its academic programmes, have due regard to the pattern of education envisaged by Rabindranath Tagore in his writings."

Principles
to be
followed
in
organising
activities
of the
University.

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substi-
tution of
new sec-
tion for
section 6.

"6. The University shall have the following powers, namely:—

(1) to provide facilities for studies, instruction, socially useful productive work and community service and research in such branches of learning as may be deemed desirable and found practicable by the University and for the promotion of understanding of cultures between the East and the West and for the advancement of learning and dissemination of knowledge generally;

(2) to undertake educational experiments and evolve contents, systems and methods of education for the furtherance of the objects of the University;

(3) to make provision for research and advisory services; and for that purpose, to enter into such arrangements with other institutions or bodies as the University may deem necessary;

(4) to co-operate, collaborate or associate with any other University, authority or institution of learning in such manner and for such purposes as the University may determine;

(5) to approve any institution of higher learning or studies for such purposes as the University may determine, and to withdraw such approval;

(6) to establish and maintain such *Bhavanas*, Schools of Studies and Research, *Chatravasas*, Gymnasia and such other institutions as are deemed necessary, from time to time, for the development of a healthy corporate life in the University and to abolish any such *Bhavana*, School, *Chatravasa*, Gymnasium or other institution;

(7) to establish, at any place in India, campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

(8) to organise the application of class room, library and laboratory learning to problems of the villages as part of the curriculum;

(9) to undertake the promotion of adult education, rural reconstruction, co-operative organisations, social welfare, develop-

Power
of the
Univer-
sity.

ment of cottage industries and all other nation-building activities and works for the benefit of the public;

(10) to establish such examination centres and to recognise such certificates as may be necessary to give effect to the provisions of section 7A;

(11) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions (on the basis of examinations, evaluation or other modes of testing) on, persons;

(12) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(13) to determine the standards for admission and the methods of admission to courses of the University, which methods shall include examinations, evaluation and other modes of testing;

(14) to supervise the residences of students of the University and to make arrangements for promoting their health and general welfare;

(15) to make such special arrangements in respect of women students as the University may consider desirable;

(16) to regulate the conduct of students of the University, and to take such disciplinary measures in this regard as may be deemed necessary;

(17) to create such teaching and other academic posts as may be required by the University and to appoint persons to such posts;

(18) to appoint Visiting Professors, Emeritus Professors, Fellows, Scholars, Resident Artists, Resident Writers or such other persons who may contribute to the achievement of the objects of the University;

(19) to appoint or recognise persons as Professors, Readers or Lecturers or otherwise as *adhyapakas* of the University;

(20) to approve persons working in—

(a) any institution co-operating, collaborating or associating with the University; or

(b) any approved institution,

for imparting instruction or supervising research, or both, and to withdraw such approval;

(21) to undertake publication of literary, scientific, educational and scholarly works and books on art, aesthetics and other subjects aimed at better understanding of the different cultures of the world and furthering thereby the objectives of the University;

(22) to appoint persons working in any other University, institution or organisation as *adhyapakas* of the University for a specified period;

(23) to create administrative, ministerial and other posts in the University and to make appointments thereto;

(24) to provide for the terms and conditions of service of employees, whether employed by the University or any institution;

(25) to regulate the conduct and duties of the employees of the University;

(26) to regulate and enforce discipline among the employees of the University and to take such disciplinary measures in this regard as may be deemed necessary;

(27) to make arrangements for promoting the health and general welfare of the employees of the University;

(28) to demand and receive payment of fees and other charges;

(29) to institute and award fellowships, scholarships, studentships, medals and prizes;

(30) to receive benefactions, donations and gifts, and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties, for the purposes of the University;

(31) to borrow, with the approval of the Central Government, whether on the security of the property of the University or otherwise, money for the purposes of the University;

(32) to establish campuses within the territorial limits of the University specified in the Second Schedule;

(33) to admit students of any other University or College whether in India or outside to any examination of the University subject to such conditions as the University may lay down for the purpose;

(34) to do all such acts and things as may be necessary or incidental to the exercise of all or any of the powers of the University or as are necessary or conducive to the attainment of all or any of the objects of the University.”

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

“10. (1) The President of India shall be the *Paridarsaka* (Visitor) of the University.

(2) Subject to the provisions of sub-sections (3) and (4), the *Paridarsaka* (Visitor) shall have the right to cause an inspection to be made, by such person or persons as he may specify, of the University, its buildings, laboratories and equipment, and of any *Bhavana* or other Institution, and also of the examinations, teaching and other work conducted or done by the University, *Bhavana* or other Institution; and to cause an inquiry to be made in like manner

Substi-
tution of
new sec-
tion for
section
10.

The Par-
idarsaka
(Visitor).

in respect of any matter connected with the administration or finances of the University.

(3) The *Paridarsaka* (Visitor) shall give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall, on receipt of such notice, have the right to make, within thirty days or such other period as the *Paridarsaka* (Visitor) may determine, from the date of receipt of the notice, such representations to the *Paridarsaka* (Visitor) as it may consider necessary.

(4) After considering the representations, if any, made by the University, the *Paridarsaka* (Visitor) may cause to be made such inspection or inquiry as is referred to in sub-section (2).

(5) Where any inspection or inquiry has been caused to be made by the *Paridarsaka* (Visitor), the University shall be entitled to appoint a representative who shall have the right to be present and to be heard at such inspection or inquiry.

(6) The *Paridarsaka* (Visitor) may address the *Upacharya* (Vice-Chancellor) with reference to the results of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon as the *Paridarsaka* (Visitor) may be pleased to offer, and on receipt of the address made by the *Paridarsaka* (Visitor), the *Upacharya* (Vice-Chancellor) shall communicate forthwith to the *Karma-Samiti* (Executive Council) the results of the inspection or inquiry and the views of the *Paridarsaka* (Visitor) and the advice tendered by him upon the action to be taken thereon.

(7) The *Karma-Samiti* (Executive Council) shall communicate through the *Upacharya* (Vice-Chancellor) to the *Paridarsaka* (Visitor) such action, if any, as it proposes to take or has been taken by it upon the results of such inspection or inquiry.

(8) Where the *Karma-Samiti* (Executive Council) does not, within a reasonable time, take action to the satisfaction of the *Paridarsaka* (Visitor), the *Paridarsaka* (Visitor) may, after considering any explanation furnished or representation made by the *Karma-Samiti* (Executive Council), issue such directions as he may think fit and the *Karma-Samiti* (Executive Council) shall be bound to comply with such directions.

(9) Without prejudice to the foregoing provisions of this section, the *Paridarsaka* (Visitor) may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order he shall call upon the University to show cause why such an order should not be made and, if any cause is shown within a reasonable time, he shall consider the same.

(10) The *Paridarsaka* (Visitor) shall have such other powers as may be specified in the Statutes."

7. For section 12 of the principal Act, the following section shall be substituted, namely:—

"12. The following shall be the officers of the University, namely:—

- (1) The Acharya (Chancellor);
- (2) The Upacharya (Vice-Chancellor);
- (3) The Director of Studies, Educational Innovations and Rural Reconstruction;
- (4) The Director of Culture and Cultural Relations;
- (5) The Director of Physical Education, Sports, National Service and Student Welfare;
- (6) The Karma-Sachiva (Registrar);
- (7) The Vitta-Adhikari (Finance Officer);
- (8) Adhyakshas of Bhavanas; and
- (9) such other officers as may be declared by the Statutes to be officers of the University.”.

8. In section 13 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The Acharya (Chancellor) shall, by virtue of his office, be the Head of the University.

(2) The Acharya (Chancellor) shall be appointed by the Paridarsaka (Visitor) from out of a panel of persons prepared and recommended by the Karma-Samiti (Executive Council) under sub-section (2A).

(2A) The Karma-Samiti (Executive Council) shall prepare and recommend a panel of not less than three persons each of whom shall be a person of eminence in the academic or public life of the country, and is in the opinion of the Karma-Samiti (Executive Council) a fit and proper person to be appointed as the Acharya (Chancellor) of the University:

Provided that if the Paridarsaka (Visitor) does not approve of any of the persons specified in the panel prepared and recommended by the Karma-Samiti (Executive Council), he may call upon the Karma-Samiti (Executive Council) to prepare a fresh panel of persons.

(2B) The Acharya (Chancellor) shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that the Acharya (Chancellor) shall, notwithstanding the expiry of the term of his office, continue to hold such office until his successor is appointed and has entered upon his office.”.

Substitution of new section for section 12.

Officers of the University.

Amendment of section 13.

Substi-
tution of
new sec-
tion for
section
14.

The
Upa-
charya
(Vice-
Chancel-
lor).

9. For section 14 of the principal Act, the following section shall be substituted, namely:—

"14. (1) The Upacharya (Vice-Chancellor) shall be appointed by the Paridarsaka (Visitor) in such manner, for such term and on such emoluments and other conditions of service as may be prescribed by the Statutes.

(2) The Upacharya (Vice-Chancellor) shall be the principal executive and academic officer of the University, and shall exercise general supervision and control over the academic affairs of the University and all *Bhavanas* and other Institutions and give effect to the decisions of all the authorities of the University.

(3) The Upacharya (Vice-Chancellor) may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Paridarsaka (Visitor) whose decision thereon shall be final:

Provided further that an employee of the University, who is aggrieved by the action taken by the Upacharya (Vice-Chancellor) under this sub-section, shall have the right to appeal against such action to the Karma-Samiti (Executive Council) within ninety days from the date on which such action is communicated to him and thereupon the Karma-Samiti (Executive Council) may confirm, modify or reverse the action taken by the Upacharya (Vice-Chancellor).

(4) The Upacharya (Vice-Chancellor) shall exercise such other powers and perform such other functions as may be prescribed by the Statutes and the Ordinances."

Omis-
sion of
section
15.

Substi-
tution of
new sec-
tions for
sections
16 and 17.

The
Karma-
Sachiva
(Regis-
trar).

10. Section 15 of the principal Act shall be omitted.

11. For sections 16 and 17 of the principal Act, the following sections shall be substituted, namely:—

"16. (1) The Karma-Sachiva (Registrar) shall be appointed in such manner, and on such emoluments and other conditions of service, as may be prescribed by the Statutes and the Ordinances.

(2) The Karma-Sachiva (Registrar) shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such other powers and perform such other functions as may be prescribed by the Statutes.

17. (1) All officers of the University, other than the *Acharya* (Chancellor), the *Upacharya* (Vice-Chancellor) and the *Karma-Sachiva* (Registrar), shall be appointed in such manner, for such term and on such emoluments and other conditions of service as may be prescribed by the Statutes.

(2) The powers and functions of the officers appointed under sub-section (1) shall be such as may be prescribed by the Statutes.”.

12. In section 18 of the principal Act,—

(i) in clause (3), the word “and” occurring at the end shall be omitted;

(ii) clause (4) shall be re-numbered as clause (6), and before clause (6) as so re-numbered, the following clauses shall be inserted, namely:—

“(4) The *Artha-Samiti* (Finance Committee);

(5) The Institute Board; and”.

13. For sections 19, 20 and 21 of the principal Act, the following section shall be substituted, namely:—

“19. (1) The constitution of the *Samsad* (Court) and the term of office of its members shall be such as may be prescribed by the Statutes.

(2) Subject to the other provisions of this Act, the *Samsad* (Court) shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University, including the maintenance of standards and adherence to the objectives of the University and to suggest measures for the development and improvement of the University which shall be considered by the appropriate authorities of the University;

(b) to consider and pass resolutions on the annual report and annual accounts of the University and the report of its auditors on such accounts;

(c) to advise the *Paridarsaka* (Visitor) in respect of any matter which may be referred to it for advice; and

(d) to exercise such other powers and perform such other functions as may be prescribed by the Statutes.”.

14. For sections 22 and 23 of the principal Act, the following section shall be substituted, namely:—

Other
officers

Amend-
ment of
section
18.

Substi-
tution of
new sec-
tion for
sections
19, 20
and 21.

The
Samsad
(Court).

Substi-
tution of
new sec-
tion for
sections
22 and 23.

*The Karma-Samiti
(Executive Council).*

"22. (1) The Karma-Samiti (Executive Council) shall be the principal executive body of the University.

(2) The constitution of the Karma-Samiti (Executive Council) and the term of office of its members shall be such as may be prescribed by the Statutes.

(3) The Karma-Samiti (Executive Council) shall exercise the following powers and perform the following functions, namely:—

(a) to manage and administer the revenue and property of the University and to conduct all administrative affairs of the University not otherwise provided for in this Act or the Statutes;

(b) to create teaching and academic posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other *adhyapakas* and academic staff employed by the University:

Provided that before determining the number, qualifications and emoluments of *adhyapakas* and other academic staff, the Karma-Samiti (Executive Council) shall consider the recommendations of the Siksha-Samiti (Academic Council);

(c) to appoint such Professors, Readers, Lecturers and other *adhyapakas* and academic staff as may be necessary on the recommendation of the Selection Committees constituted for the purpose and to fill up temporary vacancies therein;

(d) to provide for the appointment of Visiting Professors, Emeritus Professors, Fellows, Scholars, Resident Artists and Resident Writers and to determine the terms and conditions of such appointment;

(e) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose, to appoint such agents as it may think fit;

(f) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, shares or securities as it thinks fit, or in the purchase of immovable property in India;

(g) to exercise such other powers and perform such other functions as may be conferred or specified by this Act or the Statutes."

*Amend-
ment of
section
24.*

15. In sub-section (1) of section 24 of the principal Act,—

(i) for the words "the academic body", the words "the principal academic body" shall be substituted;

(ii) for the words "instruction, education and examination", the words "learning, education, instruction, evaluation and examination" shall be substituted.

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

Substi-
tution of
new
section
for sec-
tion 25.

"25. The constitution, powers and functions of the *Artha-Samiti* (Finance Committee), the Institute Board and of such other authorities as may be declared by the Statutes to be authorities of the University shall be such as may be prescribed by the Statutes.”.

17. For section 27 of the principal Act, the following section shall be substituted, namely:—

Other
authori-
ties of
the Uni-
versity.

Substi-
tution of
new sec-
tion for
section 27.

Statutes.

"27. Subject to the provisions of this Act, the Statutes may pro-
vide for all or any of the following matters, namely:—

(a) the manner of appointment, of the *Upacharya* (Vice-Chancellor), the term of his appointment, emoluments and other conditions of his service;

(b) the powers that may be exercised and the functions that may be performed by the *Upacharya* (Vice-Chancellor);

(c) the manner of appointment of the *Karma-Sachiva* (Registrar), the emoluments and other conditions of his service and the powers that may be exercised and the functions that may be performed by him;

(d) the manner of appointment of all other officers, the terms of their appointment, emoluments and other conditions of their service and the powers and functions of such officers;

(e) the constitution of the *Samsad* (Court), the term of office of its members and its powers and functions;

(f) the constitution of the *Karma-Samiti* (Executive Council), the term of office of its members and its powers and functions;

(g) the constitution of other authorities or bodies of the University, the term of office of their members and their powers and functions;

(h) the election and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(i) the appointment of *adhyapakas* and other academic staff and other employees of the University and their emoluments and other conditions of service;

Provided that where any person who had held any post and is in receipt of a pension or other form of retirement benefits is appointed as an *adhyapaka* of the University or to any other academic post, the salary of such person together with the pen-

sion and other benefits shall not exceed the salary payable to him in accordance with the Statutes;

(j) the appointment of *adhyapakas* and other academic staff working in any other University, institution or organisation for a specified period for undertaking a joint project;

(k) the appointment of Visiting Professors, Emeritus Professors, Fellows, Scholars, Resident Artists and Resident Writers, and the terms and conditions of such appointment;

(l) the constitution of a pension or provident fund or the establishment of an insurance scheme for the benefit of the employees of the University;

(m) the principles governing seniority of service of the employees of the University;

(n) the procedure in relation to any appeal or application for review by any employee or student of the University, against the action of any officer or authority of the University, including the time within which such appeal or application for review may be preferred or made;

(o) the procedure for the settlement of disputes between employees of the University, or students of the University, and the University;

(p) the conferment of honorary degrees;

(q) the institution of fellowships, scholarships, studentships, medals and prizes;

(r) the maintenance of discipline among the employees and students of the University;

(s) the establishment and abolition of *Bhavanas*, Departments, *Chatravasas* and other institutions and their management, supervision and inspection;

(t) the regulation of the conduct and duties of the employees of the University and the conduct of the students of the University;

(u) the establishment of campuses, special centres, specialised laboratories or other units for research and instruction;

(v) the administration and regulation of the funds received in trust or otherwise by the University;

(w) the delegation of powers vested in the officers or authorities of the University;

(x) the constitution and activities of the Alumni Association;

(y) the categories of misconduct for which any action may be taken under this Act, or the Statutes or the Ordinances; and

(z) all other matters which, by this Act, are to be, or may be, provided for by the Statutes.”

18. In section 28 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) On the commencement of the Visva-Bharati (Amendment) Act, 1984, the Statutes in force immediately before such commencement, as amended by that Act, shall be the Statutes of the University.”.

19. For sections 29 and 30 of the principal Act, the following sections shall be substituted, namely:—

“29. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the pattern of learning process, courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same and the means to be adopted relating to the granting and obtaining of the same;

(d) the purposes for which certificates awarded by the *Lok Siksha-Samsad* (People's Education Council) of the University may be recognised by the University;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, and processes of evaluation, degrees, diplomas and certificates of the University;

(f) the conditions of the award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of tests, evaluations and examinations, including the terms of office and manner of appointment and duties of examining bodies, examiners, moderators and persons entrusted with the responsibility of evaluation;

(h) the conditions of residence of the students of the University and the special arrangements, if any, for the residence of women students;

(i) the special arrangements, if any, which may be made for the discipline and teaching of women students, and prescribing for them special courses of study;

(j) the terms and conditions of service of the employees of the University other than those prescribed by the Statutes (including the emoluments of the non-teaching staff):

Provided that where any person who had held any post and is in receipt of a pension or other form of retirement benefits is

Amend-
ment of
section
28.

Substitu-
tion of
new sec-
tions for
sections
29 and 30.

Matters
to be
provided
for
in the
Ordi-
nances.

appointed to a non-teaching post of the University, the salary of such person together with the pension and other benefits shall not exceed the salary payable to him in accordance with the Ordinances;

(k) the terms and conditions of approval of institutions of higher learning and its withdrawal;

(l) the manner of co-operation or collaboration or association with other Universities, authorities or institutions of learning;

(m) the terms and conditions on which persons working in an approved institution, or in any institution co-operating, collaborating or associating with the University, may be approved as *adhyapakas* and for withdrawing such approval;

(n) the educational experimentation and the creation, composition and functioning of any other body which is considered necessary for improving the academic life of the University; and

(o) all other matters which, by this Act or the Statutes, are to be, or may be, provided for by the Ordinances.

Power
to make
Ordi-
nances.

30. (1) The Ordinances in force immediately before the commencement of the Visva-Bharati (Amendment) Act, 1984, may be amended, repealed or added to, at any time by the *Karma-Samiti* (Executive Council):

Provided that no Ordinance shall be made in respect of matters enumerated in section 29, other than those enumerated in clauses (e), (h), (j), (m) and (o) thereof, unless a draft of such Ordinance has been proposed by the *Siksha-Samiti* (Academic Council).

(2) The *Karma-Samiti* (Executive Council) shall not have power to amend any draft proposed by the *Siksha-Samiti* (Academic Council) under the provisions of sub-section (1), but may reject the proposal or return the draft to the *Siksha-Samiti* (Academic Council) for reconsideration, either in whole or in part, together with any amendments which the *Karma-Samiti* (Executive Council) may suggest.

(3) Where the *Karma-Samiti* (Executive Council) has rejected or returned the draft of an Ordinance proposed by the *Siksha-Samiti* (Academic Council), the *Siksha-Samiti* (Academic Council) may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than one-half of the total membership of the *Siksha-Samiti* (Academic Council) and by a majority of not less than two-thirds of the members of the *Siksha-Samiti* (Academic Council) present and voting, the draft may be sent back to the *Karma-Samiti* (Executive Council), which shall either adopt it or refer it to the *Paridarsaka* (Visitor) whose decision thereon shall be final.

(4) Every Ordinance made by the *Karma-Samiti* (Executive Council) shall come into effect immediately.

(5) Every Ordinance made by the *Karma-Samiti* (Executive Council) shall be submitted to the *Paridarsaka* (Visitor) within four

weeks of the date of the meeting of the Karma-Samiti (Executive Council), and the *Paridarsaka* (Visitor) shall have the power to direct the University, within six weeks from the date of the receipt of the Ordinance, to suspend the operation of any Ordinance and he shall, as soon as possible, inform the Karma-Samiti (Executive Council) about his objection to the proposed Ordinance.

(6) The *Paridarsaka* (Visitor) may, after receiving the comments of the University, either withdraw the order directing the suspension of the Ordinance or disallow the Ordinance and his decision thereon shall be final.”

20. In section 32 of the principal Act, for the words and brackets “*Bhavana* (College) or *Chatravasa* (Hostel)”, the word “*Chatravasa*” shall be substituted.

21. In section 34 of the principal Act, for the word “examinations”, the words “tests, evaluations and examinations” shall be substituted.

22. For sections 35 and 36 of the principal Act, the following sections shall be substituted, namely:—

“35. (1) The annual report of the University shall be prepared under the directions of the Karma-Samiti (Executive Council) which shall include, among other matters, the steps taken by the University to promote socially relevant research in physical and social sciences, weaker sections' need oriented extension activities and integration of the community life of the University with that of the wider world.

(2) The annual report so prepared shall be submitted to the *Samsad* (Court) on or before such date as may be prescribed by the Statutes and shall be considered by the *Samsad* (Court) in its annual meeting.

(3) The *Samsad* (Court) may communicate its comments on the annual report to the Karma-Samiti (Executive Council) and the *Paridarsaka* (Visitor).

(4) A copy of the annual report, as prepared under sub-section (1) shall also be submitted to the Central Government which shall, as soon as may be, cause the same to be laid before both the Houses of Parliament.

36. (1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Karma-Samiti (Executive Council) and shall once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such person or persons as he may authorise in this behalf.

(2) A copy of the accounts together with the audit report shall be submitted to the *Samsad* (Court) and the *Paridarsaka* (Visitor)

Amend-
ment of
section
32.

Amend-
ment of
section
34.

Substi-
tution of
new sec-
tions for
sections
35 and
36.

Annual
report.

Annual
accounts.

along with the observations of the Karma-Samiti (Executive Council).

(3) Any observations made by the *Paridarsaka* (Visitor) on the annual accounts shall be brought to the notice of the *Samsad* (Court) and the observations of the *Samsad* (Court), if any, shall, after being considered by the *Karma-Samiti* (Executive Council), be submitted to the *Paridarsaka* (Visitor).

(4) A copy of the accounts together with the audit report, as submitted to the *Paridarsaka* (Visitor), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both the Houses of Parliament.

(5) The audited annual accounts, after having been laid before both the Houses of Parliament, shall be published in the Gazette of India."

23. For sections 37 and 38 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 37 and 38.

Adhyapakas of the University to be appointed under a written contract.

37. (1) No *adhyapaka* of the University shall be appointed to a permanent post, except under a written contract and such contract shall not be inconsistent with the provisions of this Act, the Statutes and the Ordinances.

(2) The contract referred to in sub-section (1) shall be lodged with the University and a copy thereof shall be furnished to the *adhyapaka* concerned.

(3) In the case of an *adhyapaka* appointed by the University before the commencement of the Visva-Bharati (Amendment) Act, 1984, the contract in force immediately before such commencement, in relation to his emoluments, shall, to the extent of any inconsistency with the provisions of this Act or the Statutes or the Ordinances, be deemed to have been modified by the said provisions and where there is no such contract and the *adhyapaka* is a salaried *adhyapaka* appointed to a permanent post, a written contract shall be executed by, and between, such *adhyapaka* and the University within a period of six months from the commencement of the Visva-Bharati (Amendment) Act, 1984.

Tribunal of Arbitration.

38. (1) Any dispute arising out of a contract of employment referred to in section 37, including a dispute relating to the non-compliance of the provisions of this Act, the Statutes or the Ordinances, shall, at the request of the *adhyapaka*, be referred to a Tribunal of Arbitration which shall consist of one member nominated by the *Karma-Samiti* (Executive Council), one member nominated by the *adhyapaka* concerned and one member (who shall act as umpire) nominated by the *Paridarsaka* (Visitor).

(2) Every request made under sub-section (1) shall be deemed to be a submission to arbitration upon the terms of this section

10 of 1940.

within the meaning of the Arbitration Act, 1940, and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly.

(3) If, for any reason, a vacancy occurs in the office of a member of the Tribunal of Arbitration, the appropriate body or person concerned shall nominate another person in accordance with the provisions of sub-section (1) to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(4) The decision of the Tribunal of Arbitration shall be final and binding on the parties.

(5) The Tribunal of Arbitration shall have the power—

(a) to regulate its own procedure;

(b) to order reinstatement of the *adhyapaka* concerned; and

(c) to award salary to the *adhyapaka* concerned, after deducting therefrom such income, not being income from property, as such *adhyapaka* might have derived during the period of his suspension or during the period intervening between the date on which he was removed or dismissed from service or, as the case may be, his service was terminated, and the date on which he is reinstated:

Provided that the income which could have been derived by the *adhyapaka* concerned shall not be taken into account if, at the time when the income was derived, he could have derived such income had he not been suspended or removed or dismissed from service or if his service had not been terminated.

(6) No suit or other proceedings shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

38A. (1) The *Upacharya* (Vice-Chancellor) may, by order in writing, place an *adhyapaka* or other member of the academic staff under suspension—

(a) where a disciplinary proceeding against such *adhyapaka* or other member is contemplated or is pending; or

(b) where a case against him in respect of any criminal offence is under investigation or trial.

(2) Where any order of suspension is made under sub-section (1), the circumstances in which such order has been made shall be reported forthwith to the *Karma-Samiti* (Executive Council).

(3) The *Karma-Samiti* (Executive Council) may, within fifteen days from the date of receipt of the report referred to in sub-section (2), revoke the order of suspension if it is of opinion that the circumstances of the case do not warrant the suspension.

(4) Any person aggrieved by an order of suspension, which has not been revoked under sub-section (3), may prefer an appeal to the

Power to
suspend
adhyapaka
or other
member
of academic staff.

Karma-Samiti (Executive Council) within thirty days from the date on which such order is communicated to him and the *Karma-Samiti* (Executive Council) may confirm, modify or reverse the order appealed against.

Authorities by whom order for removal or dismissal of *adhyapaka*, etc., may be made and the procedure therefor.

38B. (1) No *adhyapaka*, or other member of the academic staff, appointed by the University shall be dismissed or removed from service or punished in any other manner by any authority other than the *Karma-Samiti* (Executive Council).

(2) No *adhyapaka*, or other member of the academic staff, appointed by the University shall be dismissed or removed from service or punished in any other manner except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry, to impose upon the *adhyapaka* or other member of the academic staff any punishment, such punishment may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such *adhyapaka* or other member of the academic staff any opportunity of making representation on the punishment proposed.

(3) The *Karma-Samiti* (Executive Council) shall be entitled to dismiss or remove from service, without holding any such inquiry as is referred to in sub-section (2), an *adhyapaka*, or other member of the academic staff, of the University, where the *Karma-Samiti* (Executive Council), for reason to be recorded in writing, is satisfied that such *adhyapaka* or other member of the academic staff—

(a) is of unsound mind or is a deaf-mute or suffers from contagious leprosy; or

(b) is an undischarged insolvent; or

(c) has been convicted, by a court of law, of an offence involving moral turpitude.

(4) The dismissal or removal from service of, or any other punishment imposed on, an *adhyapaka*, or other member of the academic staff, appointed by the University shall take effect from the date on which the order of dismissal or removal from service is made or other punishment is imposed:

Provided that, where the *adhyapaka* or other member of the academic staff is under suspension at the time when the order for his dismissal or removal from service is made or other punishment is imposed, such order may, if the *Karma-Samiti* (Executive Council) so directs, take effect from the date on which he was placed under suspension.

(5) Notwithstanding the terms of contract between the University and an *adhyapaka*, or other member of the academic staff, appointed by the University, such *adhyapaka* or other member of the academic staff may resign his office—

(a) where he is permanent, by giving three months' notice in writing to the *Karma-Samiti* (Executive Council) or by

paying to the University three months' salary in lieu of such notice; or

(b) where he is not permanent, one month's notice in writing to the Karma-Samiti (Executive Council) or by paying to the University one month's salary in lieu of such notice:

Provided that if the Karma-Samiti (Executive Council) so permits, the period of three months' notice or of one month's notice, as the case may be, may be reduced or waived:

Provided further that such resignation shall take effect from the date on which it is accepted by the Karma-Samiti (Executive Council).

Explanation.—"Suspension" shall not be deemed to be a punishment within the meaning of this section.'

24. After section 44 of the principal Act, the following sections shall be inserted, namely:—

"44A. No suit or other legal proceeding shall lie against any officer or employee of the University for anything which is in good faith done, or intended to be done, in pursuance of the provisions of this Act, the Statutes or the Ordinances.

44B. A copy of any receipt, application, notice, order, proceeding or resolution of any authority or committee of the University, or other documents in the possession of the University, or any entry in any register duly maintained by the University, if certified by the Karma-Sachiva (Registrar), shall, notwithstanding anything contained in the Indian Evidence Act, 1872, or in any other law for the time being in force, be admitted as evidence of the matters and transactions specified therein where the original thereof would, if produced, have been admissible in evidence."

1 of 1872.

25. The First Schedule to the principal Act shall be omitted.

26. In the Second Schedule to the principal Act,—

(i) for the figures and words "11.5 square miles", the figures and word "3000 hectares" shall be substituted;

(ii) for the words "East Indian Railway", in the two places where they occur, the words "Eastern Railway" shall be substituted;

27. Notwithstanding anything contained in the principal Act, the Statutes of the University shall stand amended as follows:—

(1) for Statute 1, the following Statute shall be substituted, namely:—

1. Definitions

In these Statutes, unless the context otherwise requires,—

(a) "Act" means the Visva-Bharati Act, 1951;

Insertion
of new
sections
44A and
44B.

Protec-
tion of
action
taken
in good
faith.

Mode of
proof of
Uni-
versity
record.

Omission
of
First
Schedule.

Amend-
ment of
Second
Sche-
dule.

Amend-
ment of
Statutes.

- (b) "section" means a section of the Act;
- (c) words and expressions used but not defined herein shall have the meanings respectively assigned to them under the Act.';
- (2) Statute 2 shall be omitted;
- (3) for Statute 3, the following Statute shall be substituted, namely:—

"3. The Upacharya (Vice-Chancellor)"

- (1) The *Upacharya* (Vice-Chancellor) shall be a whole-time salaried officer of the University.
- (2) The *Upacharya* (Vice-Chancellor) shall be appointed by the *Paridarsaka* (Visitor) from out of a panel of not less than three persons recommended (the names being arranged in the alphabetical order) by a Committee constituted under clause (3).

(3) The Committee referred to in clause (2) shall consist of three members, of whom one shall be nominated by the *Samsad* (Court), one by the *Karma-Samiti* (Executive Council) and one by the *Paridarsaka* (Visitor), and the person nominated by the *Paridarsaka* (Visitor) shall be the Chairman of the Committee:

Provided that no person who is an employee of the University or a member of the *Samsad* (Court), *Karma-Samiti* (Executive Council) or *Siksha-Samiti* (Academic Council) shall be nominated to be a member of the Committee.

(4) The *Upacharya* (Vice-Chancellor) shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and he shall not be eligible for re-appointment:

Provided that the *Paridarsaka* (Visitor) may require any *Upacharya* (Vice-Chancellor), whose term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) The emoluments and other conditions of service of the *Upacharya* (Vice-Chancellor) shall be as follows, namely:—

(i) there shall be paid to the *Upacharya* (Vice-Chancellor), a salary of three thousand rupees per mensem and he shall be entitled, without payment of rent, to the use of a furnished residence throughout his term of office and no charge shall fall on the *Upacharya* (Vice-Chancellor) personally in respect of the maintenance of such residence:

Provided that if a person in receipt of any pension or other form of retirement benefits is appointed as *Upacharya* (Vice-Chancellor) his salary shall be fixed after taking into consideration such pension or other benefits;

(ii) the *Upacharya* (Vice-Chancellor) shall be entitled to such terminal benefits and allowances as may be fixed by

the *Karma-Samiti* (Executive Council) with the approval of the *Paridarsaka* (Visitor) from time to time:

Provided that where an employee of the University or any other University or any institution maintained by it is appointed as *Upacharya* (Vice-Chancellor), he may be allowed to continue to contribute to any provident fund of which he is a member, and the University shall contribute to the account of such person in that provident fund at the same rate at which such person had been contributing immediately before his appointment as *Upacharya* (Vice-Chancellor);

(iii) the *Upacharya* (Vice-Chancellor) shall be entitled to travelling allowances at such rates as may be fixed by the *Karma-Samiti* (Executive Council);

(iv) the *Upacharya* (Vice-Chancellor) shall be entitled to leave on full pay for one-eleventh of the period spent by him on active service;

(v) the *Upacharya* (Vice-Chancellor) shall also be entitled on medical grounds or otherwise, to leave without pay for a period not exceeding three months during one term of his office.

(6) If the office of the *Upacharya* (Vice-Chancellor) becomes vacant due to death, resignation or otherwise or if he is unable to perform his duties owing to absence, illness, or any other cause, the senior-most Professor of the University shall perform the duties of the *Upacharya* (Vice-Chancellor) until a new *Upacharya* (Vice-Chancellor) assumes office or until the existing *Upacharya* (Vice-Chancellor) attends to the duties of his office, as the case may be.”;

(4) in Statute 4,—

(a) in clause (1), for the words and brackets “and of the *Siksha-Samiti* (Academic Council)”, the words and brackets “, the *Siksha-Samiti* (Academic Council) and the *Artha-Samiti* (Finance Committee)” shall be substituted;

(b) in clause (3), for the words and brackets “*Artha-Samiti* (Standing Finance Committee)”, the words and brackets “*Artha-Samiti* (Finance Committee)” shall be substituted;

(c) clauses (4), (5) and (6) shall be omitted;

(5) after Statute 4, the following Statutes shall be inserted, namely:—

“4A. The Director of Studies, Educational Innovations and Rural Reconstruction

(1) The Director of Studies, Educational Innovations and Rural Reconstruction shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of the Selection Committee constituted under Statute 20G and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the Director of Studies, Educational Innovations and Rural Reconstruction shall be such as may be prescribed by the Ordinances.

(3) The Director of Studies, Educational Innovations and Rural Reconstruction shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(4) Subject to the general supervision of the *Siksha-Samiti* (Academic Council), the Director of Studies, Educational Innovations and Rural Reconstruction shall be responsible for organising studies, educational innovations and academic programmes of the University at Santiniketan and programmes of rural reconstruction at Sriniketan and foster a link between the activities at Santiniketan and those at Sriniketan.

(5) The Director of Studies, Educational Innovations and Rural Reconstruction shall have such powers and perform such functions in his field as may be determined or delegated to him by the *Siksha-Samiti* (Academic Council) and the *Upacharya* (Vice-Chancellor).

(6) The Director of Studies, Educational Innovations and Rural Reconstruction shall also act as the *Adhyaksha* of the *Vinaya Bhavana*.

4B. The Director of Culture and Cultural Relations

(1) The Director of Culture and Cultural Relations shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of the Selection Committee constituted under Statute 20G and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the Director of Culture and Cultural Relations shall be such as may be prescribed by the Ordinances.

(3) The Director of Culture and Cultural Relations shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(4) Subject to the general supervision of the *Upacharya* (Vice-Chancellor), the Director of Culture and Cultural Relations shall—

(a) co-ordinate teaching and research on the ideals and works of Rabindranath Tagore, Indian culture and its relations with the cultures of other countries;

(b) organise dissemination, through various media, of the cultural treasures of Rabindranath Tagore in the fields of art, literature and music;

(c) be responsible for relationship with institutions and agencies of culture of India and abroad;

(d) be responsible for getting the works of Rabindranath Tagore translated into the languages of India and other countries; and

(e) co-ordinate the activities of the institutions at Santiniketan and Sriniketan in respect of culture and cultural relations.

(5) The Director of Culture and Cultural Relations shall also act as the *Adhyaksha* of the *Rabindra Bhavana*.

4C. The Director of Physical Education, Sports, National Service and Student Welfare

(1) The Director of Physical Education, Sports, National Service and Student Welfare shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of the Selection Committee constituted under Statute 20G and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the Director of Physical Education, Sports, National Service and Student Welfare shall be such as may be prescribed by the Ordinances.

(3) The Director of Physical Education, Sports, National Service and Student Welfare shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(4) The Director of Physical Education, Sports, National Service and Student Welfare shall coordinate the activities of the Institutes at Santiniketan and Sriniketan in respect of physical education, sports and national service and other activities that involve students' participation in community development.

(5) The Director of Physical Education, Sports, National Service and Student Welfare shall also act as Dean of Student Welfare for all the activities at Santiniketan and Sriniketan.

(6) The Director of Physical Education, Sports, National Service and Student Welfare shall have such other powers and perform such other functions in his field as may be determined or delegated to him by the *Karma-Samiti* (Executive Council) and the *Upacharya* (Vice-Chancellor).";

(6) for Statutes 5 and 6, the following Statutes shall be substituted, namely:—

"5. The Karma-Sachiva (Registrar)

(1) The *Karma-Sachiva* (Registrar) shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of a Selection Committee constituted under Statute 20G for the purpose and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the *Karma-Sachiva* (Registrar) shall be such as may be prescribed by the Ordinances:

Provided that the *Karma-Sachiva* (Registrar) shall retire on attaining the age of sixty years.

(3) When the office of the *Karma-Sachiva* (Registrar) is vacant or when the *Karma-Sachiva* (Registrar) is, by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the *Upacharya* (Vice-Chancellor) may appoint for the purpose.

(4) (a) The *Karma-Sachiva* (Registrar) shall have power to take disciplinary action against such of the employees, excluding *adhyapakas* of the University and other members of the

academic staff, as may be specified by the *Karma-Samiti* (Executive Council), by order, and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the *Upacharya* (Vice-Chancellor) against any order of the *Karma-Sachiva* (Registrar), imposing any of the penalties specified in sub-clause (a).

(c) In a case where any inquiry discloses that a punishment beyond the powers of the *Karma-Sachiva* (Registrar) is called for, the *Karma-Sachiva* (Registrar) shall, upon conclusion of the inquiry, make a report to the *Upacharya* (Vice-Chancellor) along with his recommendations for such action as the *Upacharya* (Vice-Chancellor) deems fit:

Provided that an appeal shall lie to the *Karma-Samiti* (Executive Council) against an order of the *Upacharya* (Vice-Chancellor) imposing any penalty.

(5) The *Karma-Sachiva* (Registrar) shall be *ex-officio* Secretary of the *Samsad* (Court), *Karma-Samiti* (Executive Council), the *Siksha-Samiti* (Academic Council) and the Institute Boards, but he shall not be deemed to be a member of any of these authorities.

(6) The *Karma-Sachiva* (Registrar) shall—

(a) be the custodian of the records, the common seal and such other property of the University as the *Karma-Samiti* (Executive Council) may commit to his charge;

(b) issue all notices convening meetings of the *Samsad* (Court), the *Karma-Samiti* (Executive Council), the *Siksha-Samiti* (Academic Council), the Institute Boards, the *Patha-Samitis* (Boards of Studies), the Boards of Examiners and of the committees appointed by the authorities of the University;

(c) keep the minutes of all the meetings of the *Samsad* (Court), the *Karma-Samiti* (Executive Council), the *Siksha-Samiti* (Academic Council), the Institute Boards, the *Patha-Samitis* (Boards of Studies), the Boards of Examiners and of the committees appointed by the authorities of the University;

(d) conduct the official correspondence of the *Samsad* (Court), the *Karma-Samiti* (Executive Council), the *Siksha-Samiti* (Academic Council) and the Institute Boards;

(e) supply to the *Paridarsaka* (Visitor) and the *Acharya* (Chancellor), copies of the agenda for the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) represent the University in suits or proceedings by or against the University, sign powers of attorney and

verify pleadings or depute his representative for the purpose; and

(g) perform such other functions as may be specified in these Statutes, the Ordinances or the Regulations or as may be required, from time to time, by the *Karma-Samiti* (Executive Council) or the *Upacharya* (Vice-Chancellor).

6. Vitta-Adhikari (Finance Officer)

(1) There shall be a *Vitta-Adhikari* (Finance Officer) for the University who shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the *Vitta-Adhikari* (Finance Officer) shall be such as may be prescribed by the Ordinances:

Provided that a *Vitta-Adhikari* (Finance Officer) shall retire on attaining the age of sixty years.

(3) When the office of the *Vitta-Adhikari* (Finance Officer) is vacant or when the *Vitta-Adhikari* (Finance Officer) is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the *Upacharya* (Vice-Chancellor) may appoint for the purpose.

(4) The *Vitta-Adhikari* (Finance Officer) shall be *ex-officio* Secretary of the *Artha-Samiti* (Finance Committee), but he shall not be deemed to be a member of that Committee.

(5) The *Vitta-Adhikari* (Finance Officer) shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the *Karma-Samiti* (Executive Council) or as may be prescribed by these Statutes or the Ordinances:

Provided that the *Vitta-Adhikari* (Finance Officer) shall not incur any expenditure or make any investment exceeding ten thousand rupees without the previous approval of the *Karma-Samiti* (Executive Council).

(6) Subject to the control of the *Karma-Samiti* (Executive Council), the *Vitta-Adhikari* (Finance Officer) shall—

(a) hold and manage the property and investments of the University, including trust and endowed property, for furthering any of the objects of the University;

(b) ensure that the limits fixed by the *Artha-Samiti* (Finance Committee) for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purposes for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the *Karma-Samiti* (Executive Council);

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up to date and that stock-checking is conducted, of equipment and other consumable materials, in all offices, special centres, specialised laboratories, *Bhavanas* and other institutions maintained by the University;

(g) bring to the notice of the *Upacharya* (Vice-Chancellor) any unauthorised expenditure or other financial irregularities and suggest appropriate action being taken against persons at fault;

(h) call for from any office, special centre, specialised laboratory, *Bhavana* or other institution maintained by the University, any information or returns that he may consider necessary for the performance of his duties.

(7) The receipt by the *Vitta-Adhikari* (Finance Officer) or by the person or persons duly authorised in this behalf by the *Karma-Samiti* (Executive Council) of any money payable to the University shall be sufficient discharge for the same.

6A. Adhyakshas of Bhavanas

(1) Every *Adhyaksha* of a *Bhavana*, other than the Rabindra *Bhavana*, the *Vinaya Bhavana* and the *Patha-Bhavana*, shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of the *Upacharya* (Vice-Chancellor) from among the Professors of the *Bhavana* for a period of two years:

Provided that an *Adhyaksha* on attaining the age of sixty years shall cease to hold office as such:

Provided further that if, at any time there is only one Professor or no Professor in a *Bhavana*, the *Karma-Samiti* (Executive Council) shall appoint, on the recommendation of the *Upacharya* (Vice-Chancellor), the Professor or a Reader of the *Bhavana* to act as the *Adhyaksha* and if there is no Reader also, any other person authorised by the *Upacharya* (Vice-Chancellor) in this behalf shall exercise the powers of the *Adhyaksha* of the *Bhavana*.

(2) When the office of the *Adhyaksha* is vacant or when the *Adhyaksha* is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office

shall be performed by such person as the *Upacharya* (Vice-Chancellor) may appoint for the purpose.

(3) The *Adhyaksha* shall be the Head of the *Bhavana* and as such be responsible for the conduct and maintenance of the standards of teaching and research in the *Bhavana* and shall exercise such other powers and perform such other functions as may be prescribed by the Ordinances.

(4) The *Adhyaksha* shall have the right to be present and to speak at any meeting of the *Patha-Samiti* (Board of Studies) or committees of the *Bhavana*, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

6B. Adhyaksha of Patha-Bhavana

(1) The *Adhyaksha* of the *Patha-Bhavana* shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the *Adhyaksha* of the *Patha-Bhavana* shall be such as may be prescribed by the Ordinances:

Provided that the *Adhyaksha* of the *Patha-Bhavana* shall retire on attaining the age of sixty years.

(3) The *Adhyaksha* of the *Patha-Bhavana* shall be the Head of the *Bhavana* and shall exercise such powers and perform such functions as may be assigned to him by the *Karma-Samiti* (Executive Council).";

(7) for Statutes 8, 9 and 9A, the following Statutes shall be substituted, namely:—

"8. The Granthagarika (Librarian)

(1) There shall be a *Granthagarika* (Librarian) of the University who shall be appointed by the *Karma-Samiti* (Executive Council) on the recommendation of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The emoluments and other conditions of service of the *Granthagarika* (Librarian) shall be such as may be prescribed by the Ordinances:

Provided that the *Granthagarika* (Librarian) shall retire on attaining the age of sixty years.

(3) The *Granthagarika* (Librarian) shall exercise such powers and perform such functions as may be prescribed by the Ordinances.

9. Chatra-Parichalaka (Proctor)

- (1) The Chatra-Parichalaka (Proctor) shall be appointed by the Karma-Samiti (Executive Council) on the recommendation of the Upacharya (Vice-Chancellor) from among the *adhyapakas* of the University not below the rank of a Reader.
- (2) The Chatra-Parichalaka (Proctor) shall hold office for a term of three years from the date of his appointment.
- (3) The Chatra-Parichalaka (Proctor) shall assist the Upacharya (Vice-Chancellor) in the maintenance of discipline among the students of the University.
- (4) The Chatra-Parichalaka (Proctor) shall exercise such other powers and perform such other functions as may be assigned to him by the Upacharya (Vice-Chancellor) or the Siksha-Samiti (Academic Council).

10. The Samsad (Court)

- (1) The Samsad (Court) shall consist of the following members, namely:—

Ex-officio members

- (i) the Acharya (Chancellor);
- (ii) the Upacharya (Vice-Chancellor);
- (iii) the Director of Studies, Educational Innovations and Rural Reconstruction;
- (iv) the Director of Culture and Cultural Relations;
- (v) the Director of Physical Education, Sports, National Service and Student Welfare;
- (vi) the Adhyakshas of Bhavanas;
- (vii) the Granthagarika (Librarian);
- (viii) the Chatra-Parichalaka (Proctor);
- (ix) the Head of the Palli-Samgathana Vibhaga;
- (x) the Head of the Granthan Vibhaga;
- (xi) the Heads of Departments;

Representatives of Adhyapakas

- (xii) one *adhyapaka* from each of the Institutes, by rotation according to seniority;

Representatives of non-teaching staff

- (xiii) five representatives of non-teaching staff by rotation according to seniority;

Representatives of Students

- (xiv) two students to be nominated by the Siksha-Samiti (Academic Council) from amongst students who have

distinguished themselves in studies, sports, extra-curricular activities and all-round development of personality or from amongst students who have won prizes during the preceding year in the fields of studies, fine arts, sports, extension work or any other prizes at the level of Class X and above;

(xv) three students to be nominated by the *Upacharya* (Vice-Chancellor) on the basis of merit so as to provide representation to any section of students which in his opinion is unrepresented:

Provided that in nominating students under items (xiv) and (xv), women students shall be adequately represented;

Representatives of Parliament

(xvi) five representatives of Parliament, three to be nominated by the Speaker of the Lok Sabha from among its members and two to be nominated by the Chairman of the Rajya Sabha from among its members;

Representatives of the Alumni Association

(xvii) three representatives of the Alumni Association to be elected by that Association from among its members;

Persons representing learned professions and special interests

(xviii) seven persons representing learned professions and special interests including representatives of industry, labour, commerce, banking and agriculture, to be nominated by the *Paridarsaka* (Visitor);

Other members

(xix) one person to be nominated by the *Pradhana* (Rector);

(xx) one person to be nominated by the *Acharya* (Chancellor);

(xxi) other members of the *Karma-Samiti* (Executive Council) not specified above.

(2) For the purpose of appointing the members under items (xii) and (xiii) of clause (1), a common seniority list of the concerned categories based on the length of service in the University shall be maintained.

(3) All the members of the *Samsad* (Court), other than the *ex-officio* members and the members representing the students, shall hold office for a term of three years from the date of their election or nomination, as the case may be.

(4) Members representing students shall hold office for a term of one year from the date of their nomination or till such time as they continue to be students, whichever is earlier.

(5) No student who—

(i) passed the High School or an equivalent examination more than eight years earlier or the Pre-University or an equivalent examination more than seven years earlier, or had taken more than one year in excess of the period prescribed for the course for which he is a student; and

(ii) had not been on the rolls of the University for at least one year before he enters upon his office as such member;

shall be eligible to become a member of the *Samsad* (Court).

(6) No employee of the University shall be eligible to be a member under items (xvii), (xviii), (xix), (xx) and (xxi) of clause (1).";

(8) for Statutes 12 to 19, 19A and 20, the following Statutes shall be substituted, namely:—

"12. Meetings of the Samsad (Court)"

(1) The annual meeting of the *Samsad* (Court) shall be held on a date to be fixed by the *Karma-Samiti* (Executive Council) unless some other date has been fixed by the *Samsad* (Court) in respect of any year.

(2) At an annual meeting of the *Samsad* (Court), the following documents shall be presented, namely:—

(i) a report on the working of the University during the previous year, which shall include among other things—

(a) steps taken to promote socially relevant research in physical and social sciences;

(b) extension activities related to the needs of the weaker sections of the society; and

(c) activities for integration of the community life of the University with that of the wider world;

(ii) a statement of income and expenditure and balance-sheet, as audited; and

(iii) the financial estimates for the next year.

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2) shall be sent to every member of the *Samsad* (Court) at least seven days before the date of the annual meeting.

(4) Thirty members of the *Samsad* (Court), out of whom not less than five members, other than the members representing the employees or students of the University, shall form a quorum for a meeting of the *Samsad* (Court).

(5) Special meetings of the *Samsad* (Court) may be convened by the *Karma-Samiti* (Executive Council) or the *Upacharya* (Vice-Chancellor), or if there is no *Upacharya* (Vice-Chancellor), by the *Karma-Sachiva* (Registrar).

13. The Karma-Samiti (Executive Council)

(1) The *Karma-Samiti* (Executive Council) shall consist of the following members, namely:—

- (i) the *Upacharya* (Vice-Chancellor);
- (ii) the Director of Studies, Educational Innovations and Rural Reconstruction;
- (iii) the Director of Culture and Cultural Relations;
- (iv) the Director of Physical Education, Sports, National Service and Student Welfare;
- (v) the *Adhyaksha* of the *Patha-Bhavana*, *ex-officio*;
- (vi) one *Adhyaksha* from among the *Adhyakshas* of *Palli-Sangathan Vibhaga* and *Palli-Siksha Sadan*, by rotation according to seniority;
- (vii) one *Adhyaksha* from among the *Adhyakshas* of *Kala-Bhavana* and *Sangeet Bhavana*, by rotation according to seniority;
- (viii) one *Adhyaksha* from among the *Adhyakshas* of *Vidya-Bhavana* and *Siksha Bhavana*, by rotation according to seniority;
- (ix) three *adhyapakas* of the University, by rotation according to seniority;
- (x) three persons to be elected by the *Samsad* (Court) from amongst its members, none of whom shall be an employee or a student of the University.

Provided that one of the members so elected shall be a member of the Alumni Association;

- (xi) two persons to be nominated by the *Paridarsaka* (Visitor);
- (xii) one person to be nominated by the *Pradhana* (Rector);
- (xiii) one person to be nominated by the *Acharya* (Chancellor).

(2) For the purpose of appointing the members under item (ix) of clause (1), a common seniority list of all the *adhyapakas* of the University based on length of service in the University shall be maintained.

(3) Each member of the Karma-Samiti (Executive Council), other than the Upacharya (Vice-Chancellor) and the Adhyaksha of Granthan Vibhaga, shall hold office for a term of three years from the date of their election or nomination, as the case may be.

(4) If any elected member of the Karma-Samiti (Executive Council) fails to attend four consecutive meetings of the Karma-Samiti (Executive Council) without the permission of the Upacharya (Vice-Chancellor), he shall cease to be a member of the Karma-Samiti (Executive Council).

(5) Six members of the Karma-Samiti (Executive Council), out of whom at least two members who are not employees of the University, shall form the quorum for a meeting of the Karma-Samiti (Executive Council).

14. Powers and functions of the Karma-Samiti (Executive Council)

Subject to the provisions of the Act, these Statutes and the Ordinances, the Karma-Samiti (Executive Council) shall, in addition to all other powers vested in it under the Act exercise the following powers, namely:—

(i) to appoint such adhyapakas and officers of the University as may be necessary on the recommendation of the Selection Committee constituted for the purpose;

Provided that no action in respect of the number, qualifications, emoluments and other conditions of service of adhyapakas shall be taken by the Karma-Samiti (Executive Council) without consulting the Siksha-Samiti (Academic Council);

(ii) to create administrative, ministerial and other posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iii) to grant leave of absence to any officer of the University, other than the Acharya (Chancellor) and the Upacharya (Vice-Chancellor), and to make arrangements for the discharge of the functions of such officer during his absence;

(iv) to regulate and enforce discipline among the employees in accordance with these Statutes and the Ordinances;

(v) to institute fellowships, scholarships, studentships, medals and prizes;

(vi) to make such special arrangements as may be necessary for the residence and discipline of women students;

(vii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Siksha-Samiti (Academic Council);

(viii) to confer honorary degrees;

- (ix) to transfer or accept transfers of any movable or immovable property on behalf of the University;
- (x) to accept, regulate and administer funds received from any trust;
- (xi) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;
- (xii) to enter into, vary, carry out and cancel contracts on behalf of the University;
- (xiii) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the employees and students of the University, who may, for any reason, feel aggrieved;
- (xiv) to select a common seal for the University and provide for the custody and use of such seal;
- (xv) to delegate any of its powers to the *Upacharya* (Vice-Chancellor), the *Karma-Sachiva* (Registrar) or the *Vitta-Adhikari* (Finance Officer) or such other employee or authority of the University or to a Committee appointed by it as it may deem fit; and
- (xvi) to exercise such other powers and perform such other functions as may be conferred or imposed on it by the Act or these Statutes.

15. The Siksha-Samiti (Academic Council)

- (1) The *Siksha-Samiti* (Academic Council) shall consist of the following members, namely:—
 - (i) the *Upacharya* (Vice-Chancellor);
 - (ii) the Director of Studies, Educational Innovations and Rural Reconstruction;
 - (iii) the Director of Culture and Cultural Relations;
 - (iv) the Director of Physical Education, Sports, National Service and Student Welfare;
 - (v) the *Adhyakshas* of Institutes;
 - (vi) the Heads of Departments;
 - (vii) all Professors;
 - (viii) the *Granthagarika* (Librarian);
 - (ix) the *Chatra-Parichalaka* (Proctor);
 - (x) seven *adhyapakas* of the University, other than Professors and Heads of Departments, by rotation according to seniority;
 - (xi) three persons to be nominated by the *Paridarsaka* (Visitor);
 - (xii) two students to be co-opted by the *Siksha-Samiti* (Academic Council) from amongst students who are proficient in studies, sports, extra-curricular activities and all-round development of personality and from amongst those

who have won prizes in the preceding year in the fields of studies, fine arts, sports, extension work or any other prizes at the level of Class X and above;

(xiii) three students to be nominated by the *Upacharya* (Vice-Chancellor) on the basis of merit so as to provide representation to any section of students which is considered unrepresented; out of five representatives of students, at least one shall be a woman;

(xiv) five persons not being in the service of the University, co-opted by the *Siksha-Samiti* (Academic Council) for their special knowledge.

(2) For the purpose of appointing the members under item (x) of clause (1), a common seniority list of *adhyapakas* of all categories, other than Professors, based on length of service shall be maintained.

(3) The members of the *Siksha-Samiti* (Academic Council), other than the *ex-officio* members and the members representing the students, shall hold office for a term of three years from the date of their election or co-option, as the case may be.

(4) Members representing students shall hold office for a term of two years from the date of their co-option, or till such time as they continue to be students, whichever is earlier.

(5) No student who—

(i) passed the High School or an equivalent examination more than eight years earlier or the Pre-University or an equivalent examination more than seven years earlier, or had taken more than one year in excess of the period prescribed for the course for which he is a student; and

(ii) had not been on the rolls of the University for at least one year before he enters upon his office as such member,

shall be eligible to become a member of the *Siksha-Samiti* (Academic Council).

(6) Twenty members of the *Siksha-Samiti* (Academic Council) shall form the quorum for a meeting of the *Siksha-Samiti* (Academic Council).

(7) No members referred to in clause (4) shall have the right to be present at the meeting of the *Siksha-Samiti* (Academic Council) when it takes up for consideration any of the following matters, namely:—

(a) the recruitment and conditions of service of posts in the faculties of the University;

(b) annual processes of evaluating academic performances and merits of students.

16. Powers and duties of the Siksha-Samiti (Academic Council)

(1) Subject to the Act, these Statutes and the Ordinances, the Siksha-Samiti (Academic Council) shall, in addition to all other powers vested in it under the Act, have the following powers, namely:—

- (a) to exercise general supervision over the academic policies of the University and the working of the Institutes;
- (b) to bring about inter-Bhavana co-ordination and to establish or appoint Committees for taking up projects on an inter-Bhavana basis;
- (c) to consider matters of general academic interest either on its own initiative or on a reference by a Bhavana or the Karma-Samiti (Executive Council) and to take appropriate action thereon;
- (d) to perform, in relation to academic matters, all such duties and to do all such acts as may be necessary for the proper carrying out of the provisions of the Act, these Statutes and the Ordinances;
- (e) to frame such regulations and rules consistent with these Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fee concessions, corporate life and attendance.

(2) Notwithstanding anything contained in clause (1), no proposal agreed to by the Siksha-Samiti (Academic Council), which involves financial implications shall be implemented without the prior approval of the Karma-Samiti (Executive Council).

17. The Artha-Samiti (Finance Committee)

(1) The Artha-Samiti (Finance Committee) shall consist of the following members, namely:—

- (i) the Upacharya (Vice-Chancellor);
- (ii) one Adhyaksha from among the Adhyakshas of the Institutes to be appointed by the Karma-Samiti (Executive Council);
- (iii) one person to be appointed by the Karma-Samiti (Executive Council) from among its members other than an employee of the University;
- (iv) three persons to be nominated by the Paridarsaka (Visitor).

(2) All the members of the Artha-Samiti (Finance Committee), other than the Upacharya (Vice-Chancellor), shall hold office for a term of three years from the date of their appointment or nomination, as the case may be.

(3) Four members of the Artha-Samiti (Finance Committee) shall form the quorum for a meeting of the Artha-Samiti (Finance Committee).

(4) A member of the Artha-Samiti (Finance Committee) shall have the right to record a minute of dissent if he does not agree with any decision of the Artha-Samiti (Finance Committee).

18. Powers and functions of the Artha-Samiti (Finance Committee)

(1) The Artha-Samiti (Finance Committee) shall meet at least twice every year to examine the accounts and to scrutinise proposals for expenditure.

(2) The annual accounts and the financial estimates of the University prepared by the Vitta-Adhikari (Finance Officer) shall be laid before the Artha-Samiti (Finance Committee) for consideration and comments and thereafter submitted to the Karma-Samiti (Executive Council) for approval.

(3) The Artha-Samiti (Finance Committee) shall fix limits for the total recurring and non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive work, may include the proceeds of loans) and no expenditure shall be incurred by the University in excess of the limits so fixed.

(4) No expenditure other than that provided in the budget for any year shall be incurred by the University without the approval of the Artha-Samiti (Finance Committee).

19. Institutes

(1) The University shall have the following Institutes, namely:—

I. At Santiniketan

- (i) Vidya-Bhavana
- (ii) Siksha-Bhavana
- (iii) Kala-Bhavana
- (iv) Sangeet-Bhavana
- (v) Vinaya-Bhavana
- (vi) Rabindra-Bhavana
- (vii) Uttar Siksha Sadan
- (viii) Patha-Bhavana

II. At Sriniketan

- (i) Palli-Sangathan Vibhaga
- (ii) Palli Siksha Bhavana
- (iii) Siksha Satra

III. At Calcutta

Granthana Vibhaga.

(2) Each Institute, except the Granthana Vibhaga, shall have an Institute Board which shall consist of the following members, namely:—

- (i) Adhyaksha of the Institute;

- (ii) Professors of the Institute, if any;
- (iii) Heads of the Departments assigned to the Institute, who are not Professors, if any;
- (iv) two *adhyapakas* of the Institute by rotation according to seniority;
- (v) two persons to be nominated by the *Siksha-Samiti* (Academic Council) from the other Institutes of the University;
- (vi) one student of the Institute to be nominated by the *Adhyaksha* of the Institute on the basis of merit in studies, sports, extra-curricular activities and all-round development of personality;
- (vii) one person not in the service of the University to be co-opted by the Board of the Institute for his special knowledge of any subject assigned to the Institute.

(3) Members of the Institute Board, other than *ex-officio* members and the members representing students, shall hold office for a term of two years from the date of their nomination or co-option, as the case may be.

(4) Members representing students shall hold office for a term of one year from the date of nomination or so long as they continue to be students, whichever is earlier.

(5) No student who—

(i) passed the high school or an equivalent examination more than eight years earlier or the Pre-University or an equivalent examination more than seven years earlier or had taken more than one year in excess of the period prescribed for the course for which he is a student; and

(ii) had not been on the rolls of the University for at least one year before he enters upon his office as such member,

shall be eligible to become a member of the Board of the Institute.

(6) Members representing students shall not be present at the meetings of the Board when it takes up for consideration matters pertaining to the appointment of examiners and examination results.

(7) An Institute Board shall have the following functions, namely:—

- (i) to co-ordinate the teaching and research activities of the Departments and the duties assigned to the Institute;
- (ii) to promote and provide for inter-disciplinary teaching and research;
- (iii) to arrange for periodical tests, evaluation and examination in subjects falling within the purview of the Institute;
- (iv) to appoint Committees or to undertake research projects common to more than one Department;

(v) to forward to the Karma-Samiti (Executive Council) the recommendations of the Patha-Samitis (Boards of Studies) and the Research Board;

(vi) to approve courses of studies proposed by the Patha-Samitis (Boards of Studies); and

(vii) to advise the Karma-Samiti (Executive Council) and Siksha-Samiti (Academic Council) on academic matters on its own initiative or on a reference made to it.

(8) (a) Each Institute shall consist of such Departments as may be assigned to it by the Ordinances.

(b) No Department shall be established or abolished except by these Statutes:

Provided that the Karma-Samiti (Executive Council) may, on the recommendation of the Siksha-Samiti (Academic Council), establish centres of studies to which may be assigned such adhyapakas of the University as the Karma-Samiti (Executive Council) may consider necessary.

(c) Each Department shall consist of the following members, namely:—

(i) adhyapakas of the Department;

(ii) Adhyaksha or Adhyakshas of the concerned Institute;

(iii) Honorary Professors, if any, attached to the Department;

(iv) such other persons as may be members of the Department in accordance with the provisions of the Ordinances;

(v) two experts not in the service of the University to be co-opted by the Department.

20. Patha-Samitis (Boards of Studies)

(1) Each Department shall function as a Patha-Samiti (Board of Studies):

Provided that the Institute Board may, wherever necessary, decide that instead of a separate Patha-Samiti (Board of Studies) for any Department, the Institute Board itself may function as the Patha-Samiti (Board of Studies).

(2) Notwithstanding anything contained in clause (1), the Siksha-Samiti (Academic Council) may establish such Patha-Samitis (Boards of Studies), as may be considered necessary for inter-disciplinary research.

(3) A Patha-Samiti (Board of Studies) shall have the following powers and functions, namely:

(a) to recommend to the Institute Board—

(i) courses of studies;

or 1984]

Visva-Bharati (Amendment)

- (ii) appointment of persons for evaluation;
 - (iii) creation or abolition or upgrading of teaching posts;
 - (iv) field of study of each post at the time of its creation;
 - (v) measures for the improvement of standards of teaching and research;
 - (vi) subjects for research for various degrees and other requirements of research work; and
 - (vii) appointment of Supervisors of Research;
- (b) to allocate teaching work among the teachers;
- (c) to consider matters of general and academic interests to the Department and of its functioning; and
- (d) to perform such other functions as may be assigned to it by the Institute Board.

20A. Research Board

- (1) There shall be a Research Board to co-ordinate the research work of the various Institutes.
- (2) The Research Board shall consist of the following members, namely:—
 - (i) the Upacharya (Vice-Chancellor)—Chairman;
 - (ii) Adhyakshas of Institutes;
 - (iii) one Professor and one Reader from each Institute, to be nominated by the Upacharya (Vice-Chancellor);
 - (iv) not more than two outside experts to be co-opted by the Board.
- (3) The Research Board shall exercise such powers and perform such functions as may be prescribed by the Ordinances.

20B. Heads of Departments

- (1) Each Department shall have a Head whose terms and conditions of appointment shall be such as may be prescribed by the Ordinances.

- (2) In a Department, where there is more than one Professor, the Head of the Department shall be appointed from among the Professors by the Karma-Samiti (Executive Council) on the recommendation of the Upacharya (Vice-Chancellor):

Provided that if at any time there is only one Professor or no Professor in a Department, the Karma-Samiti (Executive Council) shall appoint, on the recommendation of the Upacharya (Vice-Chancellor), the Professor, or a Reader, as the Head of a Department:

Provided further that if there is no Professor or Reader in a Department, the Adhyaksha of the Bhavana concerned shall act as the Head of that Department!

(3) No Professor or Reader shall be compelled to accept the offer of appointment as the Head of a Department.

(4) A person appointed as the Head of a Department shall hold such office for a period of three years and shall be eligible for re-appointment:

Provided that a Head of a Department on attaining the age of sixty years shall cease to hold office as such.

(5) A Head of a Department may resign his office at any time during his tenure of office.

(6) A Head of a Department shall exercise such powers and perform such functions as may be prescribed by the Ordinances.

20C. Central Admission Committee

(1) There shall be a Central Admission Committee of the University consisting of the following members, namely:—

(i) *Upacharya* (Vice-Chancellor);

(ii) *Adhyakshas* of *Bhavanas*;

(iii) Two Professors, two Readers, two Lecturers and two other *adhyapakas* to be nominated by the *Upacharya* (Vice-Chancellor);

(iv) *Karma-Sachiva* (Registrar).

(2) The Central Admission Committee shall lay down principles governing admission to the different courses of the University, keeping in view of the objectives specified in section 5A of the Act, review the admission policy from time to time and shall exercise such other powers and perform such other functions as may be assigned to it by the *Siksha-Samiti* (Academic Council).

20D. Admission Committees for Institutes

(1) There shall be an Admission Committee for each Institute of the University consisting of the following members, namely:—

(i) *Adhyaksha* of the Institute;

(ii) Two *adhyapakas* of the Institute to be nominated by the *Upacharya* (Vice-Chancellor);

(iii) Two *adhyapakas* of the Institute to be nominated by the *Adhyaksha* of the Institute.

(2) The Admission Committee of each Institute shall conduct examinations, evaluation and other modes of testing for admission to the courses of the Institute, appoint examiners for the purpose of admission and perform such other functions as may be assigned to it by the Central Admission Committee.

20E. Composition and functions of the Departmental Committee

(1) Subject to the provisions of the Act, these Statutes and the Ordinances, there shall be a Departmental Committee for each Department, consisting of the *Adhyaksha* of the Department as Chairman and all other *adhyapakas* of the Department as members.

(2) The Departmental Committee shall perform such functions as may be prescribed by the Ordinances.

20F. Building and Campus Committee

(1) The *Karma-Samiti* (Executive Council) shall appoint a Building and Campus Committee to look after the building programmes in the campus of the University.

(2) The composition of the Building and Campus Committee and its functions and powers shall be such as may be prescribed by the Ordinances.

20G. Selection Committee

(1) All appointments to permanent posts specified in column (1) of the Table below clause (2) shall be made by the *Karma-Samiti* (Executive Council) on the recommendation of a Selection Committee.

(2) The Selection Committee referred to in clause (1) shall consist of—

(i) the *Upacharya* (Vice-Chancellor), who shall be the Chairman;

(ii) a nominee of the *Paridarsaka* (Visitor); and

(iii) in relation to the posts specified in column (1) of the Table below, the persons specified in the corresponding entry in column (2) thereof.

THE TABLE

(1)	(2)
Director of Studies, Educational Innovations and Rural Reconstruction.	Not less than three eminent persons, not in the service of the University or members of the <i>Karma-Samiti</i> (Executive Council) or <i>Siksha-Samiti</i> (Academic Council), to be nominated by the <i>Karma-Samiti</i> (Executive Council) out of a panel of not less than six names recommended by the <i>Siksha-Samiti</i> (Academic Council) for their special knowledge of, or interest in, the subjects with which the Director to be appointed will be concerned.
Director of Culture and Cultural Relations.	
Director of Physical Education, Sports, National Service and Student Welfare.	
Professor	<ul style="list-style-type: none"> (i) <i>Adhyaksha</i> of the Institute concerned. (ii) Head of the Department concerned, if he is a Professor. (iii) One of the Professors of the Department concerned to be nominated by the <i>Upacharya</i> (Vice-Chancellor).

(1)

(2)

Reader or Lecturer

(iv) Not less than three persons, not being in the service of the University or members of the *Karma-Samiti* (Executive Council), or *Siksha-Samiti* (Academic Council), to be nominated by the *Karma-Samiti* (Executive Council) out of a panel of not less than six names recommended by the *Siksha-Samiti* (Academic Council) for their special knowledge of, or interest in, the subject with which the Professor to be appointed will be concerned.

- (i) *Adhyaksha* of the Institute concerned.
- (ii) Head of the Department concerned.
- (iii) One Professor of the Department concerned or, if there is no Professor, a Reader of the Department, to be nominated by the *Upacharya* (Vice-Chancellor).
- (iv) Not less than two persons, not being in the service of the University or members of the *Karma-Samiti* (Executive Council) or *Siksha-Samiti* (Academic Council), to be nominated by the *Karma-Samiti* (Executive Council) out of a panel of not less than six names recommended by the *Siksha-Samiti* (Academic Council), for their special knowledge of, or interest in, the subject with which the Reader or Lecturer to be appointed will be concerned.

Adhyaksha of the *Palli-Samgathan Vibhaga*.

Three eminent persons not in the service of the University, of whom two shall be nominated by the *Karma-Samiti* (Executive Coun-

(1)

(2)

Adhyakshas of other Institutes

cil) and one by the *Siksha-Samiti* (Academic Council) for their special knowledge of the subject concerned.

Granthagarika (Librarian)

Three eminent educationists, not in the service of the University of whom two shall be nominated by the *Karma-Samiti* (Executive Council) and the other by the *Siksha-Samiti* (Academic Council).

Adhyaksha of Patha-Bhavana

(i) Two persons not in the service of the University, who have special knowledge of the subject of Library Science or Library Administration or both to be nominated by the *Siksha-Samiti* (Academic Council).

(ii) One person, not in the service of the University, nominated by the *Karma-Samiti* (Executive Council).

*Karma-Sachiva (Registrar or
Vitta-Adhikari (Finance
Officer)).*

Three eminent educationists, not in the service of the University, of whom two shall be nominated by the *Karma-Samiti* (Executive Council) and one by the *Siksha-Samiti* (Academic Council).

(i) Two members of the *Karma-Samiti* (Executive Council) to be nominated by it.

(ii) One person, not in the service of the University, to be nominated by the *Karma-Samiti* (Executive Council).

Note 1.—Where the appointment is being made for an inter-disciplinary project, the Head of the project shall be deemed to be the Head of the Department concerned.

Note 2.—The Professor to be nominated shall be a Professor concerned with the speciality for which the selection is being made and that the *Upacharya* (Vice-Chancellor) shall consult the Head of the Department and the *Adhyaksha* of the Institute concerned before nominating the Professor.

(3) The *Upacharya* (Vice-Chancellor), or in his absence, the senior-most Professor of the University shall preside over the meetings of a Selection Committee.

(4) The meetings of a Selection Committee shall be convened by the *Upacharya* (Vice-Chancellor) or in his absence, by the senior-most Professor.

(5) Four members of a Selection Committee, of whom at least two persons, in the case of selection of a Professor, and one person, in the case of selection of a Reader or Lecturer, as specified in column (2) of the Table below clause (2), shall form the quorum for a meeting of the Selection Committee and subject to this, the procedure to be followed by a Selection Committee for making recommendations shall be laid down in the Ordinances.

(6) If the *Karma-Samiti* (Executive Council) is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the *Paridarsaka* (Visitor) for final orders.

(7) Appointments to temporary posts of Professors, Readers and Lecturers shall be made in the manner indicated below:—

(a) if the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing provisions of this Statute:

Provided that if the *Upacharya* (Vice-Chancellor) is satisfied that in the interests of work it is necessary to fill the vacancy immediately, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (b) for a period not exceeding six months;

(b) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the *Adhyaksha* of the *Bhavana* concerned, the Head of the Department and a nominee of the *Upacharya* (Vice-Chancellor):

Provided that if the same person holds the offices of the *Adhyaksha* of the *Bhavana* and the Head of the Department, the Selection Committee may consist of two nominees of the *Upacharya* (Vice-Chancellor):

Provided further that in case of sudden casual vacancies in teaching posts caused by death or any other reason, the *Adhyaksha* may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the *Upacharya* (Vice-Chancellor) and the *Karma-Sachiva* (Registrar) about such appointment;

(c) no teacher appointed temporarily under the second proviso to sub-clause (b) shall, if he is not recommended by a regular Selection Committee for appointment, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

20H Advisory Council for Educational Innovations

(1) There shall be constituted, as soon as possible, but not later than one month from the date of commencement of the Visva-Bharati (Amendment) Act, 1984, an Advisory Council for Educational Innovations (hereinafter referred to as the Advisory Council) which shall be a Standing Committee of the *Siksha-Samiti* (Academic Council), and shall consist of the following members, namely:—

- (i) The *Upacharya* (Vice-Chancellor)—Chairman;
- (ii) Director of Studies, Educational Innovations and Rural Reconstruction—Member Secretary;
- (iii) Director of Culture and Cultural Relations;
- (iv) Director of Physical Education, Sports, National Service and Student Welfare;
- (v) *Adhyaksha* of *Palli-Samgathana Vibhaga*;
- (vi) three members of the *Siksha-Samiti* (Academic Council) to be nominated by the *Paridarsaka* (Visitor); and
- (vii) four members of the *Siksha-Samiti* (Academic Council) to be nominated by the *Upacharya* (Vice-Chancellor).

(2) The functions of the Advisory Council shall be as follows:—

- (a) to review the present educational system at Visva-Bharati in the light of the teachings of Rabindranath Tagore particularly those relating to education;
- (b) to suggest ways and means to:—
 - (i) embody the educational ideas of Rabindranath Tagore more adequately in the educational system of the University;
 - (ii) create an atmosphere and environment at Visva-Bharati so as to provide a natural stimulus to the students and teachers to seek the values of truth, beauty and goodness and harmony with nature;
 - (iii) organise the structure of education, so as to provide opportunities to students to offer combinations of subjects belonging to humanities, sciences, fine arts and technology; and
 - (iv) develop new teaching-learning processes which will combine lectures, tutorials, seminars, demonstrations, self-studies and collective practical projects.

(3) The Advisory Council shall be a permanent body and shall, from time to time, make such reports and suggestions as it

may think proper to the Siksha-Samiti (Academic Council) which shall consider them as soon as possible.

(4) The Karma-Samiti (Executive Council) shall, as soon as possible, consider the report of the Advisory Council and the recommendations, of the Siksha-Samiti (Academic Council) thereon and implement the recommendations of the Siksha-Samiti (Academic Council).

(5) The Advisory Council shall submit its reports to the Siksha-Samiti (Academic Council) once in every year and the Siksha-Samiti (Academic Council) shall consider such reports and submit the reports along with its recommendations to the Karma-Samiti (Executive Council) who shall implement the same.

(6) Such suggestions of the Advisory Council as have not been accepted by the Siksha-Samiti (Academic Council) shall be submitted to the Paridarsaka (Visitor) by the Karma-Samiti (Executive Council) along with its recommendations for the advice of the Paridarsaka (Visitor), and the advice of the Paridarsaka (Visitor) shall be considered by the Siksha-Samiti (Academic Council) and the Karma-Samiti (Executive Council).

20I. Students' Council

(1) There shall be constituted a Students' Council consisting of:—

(i) The Director of Physical Education, Sports, National Service and Student Welfare—Chairman;

(ii) all Doctorate and Post-Doctorate students;

(iii) all students who have won prizes in the fields of studies, fine arts, sports, extension work or any other prizes at the level of Class X and above;

(iv) twenty students to be nominated by the Siksha-Samiti (Academic Council) on the basis of merit in studies, sports, extra-curricular activities and all-round development of personality:

Provided that any student of the University belonging to Class X and above shall have the right to bring up any matter concerning the University before the Students' Council, if so, permitted by the Chairman and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, student welfare and other matters of importance in regard to the working of the University in general, and such suggestions shall be made on the basis of consensus of opinion.

(3) The Council shall meet at least once in a year, preferably at the beginning of the academic year.

20J. Appointment for a fixed tenure

The *Karma-Samiti* (Executive Council) may appoint a person selected in accordance with the procedure laid down in Statute 20G for a fixed tenure on such terms and conditions as it deems fit.

20K. Age of retirement of employees of the University

(1) Save as otherwise provided in the Act, these Statutes and the Ordinances, all employees of the University shall retire on completing the age of sixty years.

(2) The *Karma-Samiti* (Executive Council) may, in the interests of the University, re-employ an *adhyapaka*, who has retired after the expiry of his contract of service:

Provided that no *adhyapaka* shall be eligible to be re-employed under this clause, or on such re-employment to continue as an *adhyapaka*, after he has attained the age of sixty-five years:

Provided further that an *adhyapaka* so re-employed shall not be eligible to hold the office of the Head of a Department or the *Adhyaksha* of a *Bhavana* or any other office which involves administrative work:

Provided also that the salary of such *adhyapaka* shall be fixed after taking into consideration the pension or other retirement benefits drawn or to be drawn by him.

20L. Recognised *adhyapakas*

(1) The qualifications of approved *adhyapakas* and *adhyapakas* recognised by the University shall be such as may be prescribed by the Ordinances.

(2) The manner of approving or recognising *adhyapakas* and withdrawal of such approval or recognition shall be such as may be prescribed by the Ordinances.

(3) The period of approval or recognition of an *adhyapaka* shall be determined by the Ordinances made in that behalf.

20M. Seniority lists

(1) Whenever, in accordance with these Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority such seniority shall be determined according to the length of continuous service of such person in his grade, and in accordance with such other principles as the *Karma-Samiti* (Executive Council) may, from time to time, prescribe.

(2) It shall be the duty of the *Karma-Sachiva* (Registrar) to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the *Karma-Sachiva* (Registrar) may, on his own motion and shall, at the request of any such person, submit the matter to the *Karma-Samiti* (Executive Council) whose decision thereon shall be final.

20N. Removal of employees other than adhyapakas and academic staff of the University

(1) Notwithstanding anything contained in the terms of his contract of service or of his appointment, an employee of the University, other than an *adhyapaka* or a member of the academic staff, may be removed by the authority which is competent to appoint the employee if he were to be appointed on the date of such removal (hereafter in this Statute referred to as the appointing authority), if the authority aforesaid is satisfied that such employee—

(a) is of unsound mind or is a deaf-mute or suffers from contagious leprosy; or

(b) is an undischarged insolvent; or

(c) has been convicted by a court of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months:

Provided that no such employee of the University shall be removed from his office unless a resolution to that effect is passed by the *Karma-Samiti* (Executive Council) by a majority of two-thirds of its members present and voting.

(2) No employee shall be removed under clause (1) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(3) Where the removal of such employee is for a reason other than that specified in sub-clause (c) of clause (1), he shall be given three months' notice in writing or be paid three months' salary in lieu of such notice.

(4) Notwithstanding anything contained in these Statutes, an employee, other than an *adhyapaka* or a member of the academic staff, shall be entitled to resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the appointing authority or paying to the University three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the appointing authority or paying to the University one month's salary in lieu thereof.

(5) A resignation by an employee under clause (4) shall take effect from the date on which the resignation is accepted by the appointing authority.

20O. Disciplinary control of the University

(1) Where any *adhyapaka* or other employee of the University is entrusted by the University with any duties, such *adhyapaka* or employee shall be subject to the disciplinary control of the University and the University shall be competent to take disciplinary action against such *adhyapaka* or other employee for the breach of such duty or any offence committed in relation to the duties so assigned to him.

(2) An *adhyapaka* or other employee of the University shall be subject to the disciplinary control of the University in relation to any misconduct committed by him within the precincts of the University or in connection with any examination conducted by the University and the University shall be competent to take disciplinary action against such *adhyapaka* or other employee for such misconduct.

(3) Where any student of the University commits any misconduct within the precincts of the University or commits any offence in relation to any examination conducted by the University, the University shall be competent to take disciplinary action against such student for such misconduct.

(4) No disciplinary action referred to in the foregoing clauses shall be taken except after giving the person concerned a reasonable opportunity of showing cause and of being heard against the proposed action.

(5) The power to take disciplinary action under this Statute shall include the power to impose penalties for the breach of any duty, offence or misconduct for which such disciplinary action is taken.

(6) The provisions of this Statute shall have effect notwithstanding anything contained in any other provision of the Act or in any other law for the time being in force or in any instrument, rules or regulations have effect by virtue of the Act or any such law.

20P. Right of appeal or review

(1) Every employee or student of the University, who is aggrieved by the decision of any officer or authority other than the *Karma-Samiti* (Executive Council), shall notwithstanding any other provision contained in the Act or these Statutes or Ordinances, have the right to prefer an appeal against such decision, within such time as may be prescribed in this behalf by these Statutes, to the *Karma-Samiti* (Executive Council), and thereupon the *Karma-Samiti* (Executive Council) may confirm, modify or reverse the decision appealed against.

(2) An employee or student of the University aggrieved by a decision of the *Karma-Samiti* (Executive Council) and who, from the discovery of any new or important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decision was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reasons,

desires to obtain a review of the decision made against him, may apply, within such time as may be prescribed by these Statutes, for a review of such decision to the *Karma-Samiti* (Executive Council) and the *Karma-Samiti* (Executive Council) may, on such review, confirm, modify or reverse the decision.

20Q. Right of appeal in certain other cases

(1) Any student or candidate for an examination whose name has been removed from the rolls of the University, by the orders of the *Upacharya* (Vice-Chancellor), or who has been debarred from appearing at such examination for two or more years, may, within ten days of the receipt by him of such orders, prefer an appeal to the *Karma-Samiti* (Executive Council) and the *Karma-Samiti* (Executive Council) may confirm, modify or reverse the decision of the *Upacharya* (Vice-Chancellor).

(2) Any dispute arising out of any disciplinary action taken by the University against a student resulting in the removal of the name of such student from the rolls of the University for a period of more than three months shall, at the request of the student be referred to a Tribunal to be called the Students' Tribunal which shall consist of one member nominated by the *Karma-Samiti* (Executive Council), one member nominated by the student concerned and one member (who shall act as the umpire) nominated by the *Paridarsaka* (Visitor).

(3) The provisions of sub-sections (2) to (6) of section 38 of the Act shall apply to the Students' Tribunal referred to in clause (2) as they apply to the Tribunal of Arbitration constituted under sub-section (1) of that section.”;

(9) in clause (3) of Statute 21, in sub-clause (d), in the opening paragraph, for the words “Every person who successfully completed a course of studies at”, the words “Every person who has been on the rolls of” shall be substituted;

(10) in Statute 22, for clause (2), the following clause shall be substituted, namely:—

“(2) The *Karma-Samiti* (Executive Council) may, by a resolution passed by a majority of not less than two-thirds of the members present and voting withdraw, with the previous sanction of the *Acharya* (Chancellor), any honorary degree conferred by the University.”;

(11) after Statute 24, the following Statutes shall be inserted, namely:—

“24A. Disqualifications

(1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University if he—

(a) is of unsound mind or is a deaf-mute or suffers from contagious leprosy; or

(b) is an undischarged insolvent; or

(c) has been convicted by a court of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of the *Paridarsaka* (Visitor) and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

24B. Membership of authorities by virtue of members

Notwithstanding anything contained in these Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.”;

(12) in Statute 25, for the words “preside over a meeting, authority or committee”, the words “preside over a meeting of any authority of the University or any committee thereof” shall be substituted;

(13) for Statute 26, the following Statute shall be substituted, namely:—

“26. Resignation

Any member, other than an *ex officio* member of the *Samsad* (Court), the *Karma-Samiti* (Executive Council), the *Siksha-Samiti* (Academic Council) or any other authority of the University or any Committee of such authority may resign his office by letter addressed to the *Karma-Sachiva* (Registrar) and the resignation shall take effect as soon as such letter is received by the *Karma-Sachiva* (Registrar).”;

(14) in Statute 47, for clauses (3) and (4), the following clauses shall be substituted, namely:—

“(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the *Upacharya* (Vice-Chancellor) may, in the exercise of his powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in an Institute or a Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, an Institute or a Department for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Heads of special centres, *Adhyakshas* of the Institutes and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective centres, Institutes and teaching Departments in the University as may be necessary for the proper conduct of such special centres, Institutes and teaching Departments.

(5) Without prejudice to the powers of the *Upacharya* (Vice-Chancellor) and the persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University.

(6) The Heads of special centres, *Adhyakshas* of the Institutes and Heads of teaching Departments in the University may also make such supplementary rules as they deem necessary for the aforesaid purposes and every student of the University shall be supplied with a copy of the rules made by the University and the supplementary rules so made shall be supplied to the students concerned.

(7) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the *Upacharya* (Vice-Chancellor) and other authorities of the University.”;

(15) after Statute 49, the following Statute shall be inserted, namely:—

“50. Delegation of powers

Subject to the provisions of the Act and these Statutes, any officer or authority of the University may, in the manner prescribed in the Ordinances, delegate his or its powers to any other officer or authority or person under his or its respective control subject to the condition that the overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.”.

Transitional provisions.

28. (1) Every authority of the University shall, as soon as may be, after the commencement of this Act, be constituted in accordance with the provisions of the principal Act, and of the Statutes of the University, as amended by this Act and until any such authority is constituted, the authority functioning immediately before such commencement shall continue to exercise all the powers and perform all the duties under the principal Act and the Statutes, so amended.

(2) The *Upacharya* (Vice-Chancellor), the *Karma-Sachiva* (Registrar), the *Artha-Sachiva* (Treasurer) and the *Granthagarika* (Librarian) holding office immediately before the commencement of this Act, shall, on and from such commencement hold their respective offices for the same tenure and upon the same terms and conditions as they held it immediately before such commencement.

(3) The *Acharya* (Chancellor), *Adhyakshas* of the Institutes and the *Chatra-Parichalaka* (Proctor) shall, as soon as may be, after the commencement of this Act, be appointed in accordance with the provisions of

the principal Act and the Statutes of the University as amended by this Act and the person holding any such office immediately before such commencement shall continue to hold that office until his successor enters upon his office.

(4) The person holding the office of the Dean of Student Welfare immediately before the commencement of this Act, shall continue to hold that office until the Director of Physical Education, Sports, National Service and Student Welfare enters upon his office.

29. Anything done, any action taken or any degree or other academic distinction conferred by the Visva-Bharati before the commencement of this Act shall, notwithstanding any change made by this Act in the constitution of the *Samsad* (Court), the *Karma-Samiti* (Executive Council), the *Siksha-Samiti* (Academic Council), or any other authority of the University, be valid as if such thing were done, action were taken or degree or other academic distinction were conferred under the provisions of the principal Act as amended by this Act.

30. If any difficulty arises with respect to the establishment of any authority of the University or in connection with the first meeting of any authority of the University, the *Paridarsaka* (Visitor) may, in consultation with the *Upacharya* (Vice-Chancellor), by order make any appointment or do anything which appears to him necessary or expedient for the proper establishment of that authority or for the first meeting of that authority.

Saving.

Powers of
Paridarsaka
(Visitor)
to make
appoint-
ment in
certain
cases.

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

THE ESTATE DUTY (DISTRIBUTION) AMENDMENT ACT, 1984

No. 32 OF 1984

[23rd May, 1984.]

An Act further to amend the Estate Duty (Distribution) Act, 1962.

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

Short title and commencement. 1. (1) This Act may be called the Estate Duty (Distribution) Amendment Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

Amendment of long title of Act 9 of 1962. 2. In the long title of the Estate Duty (Distribution) Act, 1962 (hereinafter referred to as the principal Act), for the words, figures and letters "report dated the 28th day of October, 1978", the words, figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

Amendment of section 3. 3. In section 3 of the principal Act, in sub-section (1),—

(a) for the words, figures and letters "each of the financial years commencing on and after the 1st day of April, 1979", the words, figures and letters "the financial year commencing on the 1st day of April, 1984" shall be substituted;

(b) for the words "be distributed", the words "be distributed, provisionally," shall be substituted.

THE MOGUL LINE LIMITED (ACQUISITION OF SHARES)
ACT, 1984

No. 33 OF 1984

[23rd May, 1984.]

An Act to provide, in the public interest, for the acquisition of certain shares of the Mogul Line Limited in order to serve better the shipping needs of the nation and for matters connected therewith or incidental thereto.

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

1. This Act may be called the Mogul Line Limited (Acquisition of Shares) Act, 1984. Short title.

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

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

(b) "Company" means the Mogul Line Limited, being a company within the meaning of the Companies Act, 1956, and having its registered office at 16, N. G. N. Vaidya Marg (Bank Street), Bombay;

(c) "share" means a share in the capital of the Company, and includes a share pledged by any shareholder with any bank or other creditor;

(d) "shareholder" means a person who, immediately before the appointed day, was registered by the Company as the holder of any share and includes his legal representative;

(e) 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.

3. (1) On the appointed day, all the shares of the Company which are not held by the Central Government shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government. Transfer and vesting of certain shares of the Company in the Central Government.

(2) The Central Government shall be deemed, on and from the appointed day, to have been registered in the Register of members of the Company as the holder of each share which stands transferred to, and vested in, it by virtue of the provisions of sub-section (1).

(3) 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, injunction or any decree or order of the court, tribunal or other authority restricting the use of such shares in any manner, shall be deemed to have been withdrawn.

(4) For the removal of doubts, it is hereby declared that the provisions of sub-sections (1) and (2) shall not be deemed to affect—

(a) any right of the Company subsisting, immediately before the appointed day, against any shareholder to recover from such shareholder any sum of money on the ground that the shareholder has not paid or credited to the Company the whole or any part of the value of the shares held by him, or on any other ground whatsoever; or

(b) any right of the shareholder subsisting, immediately before the appointed day, against the Company to receive any dividend or other payment due from the Company.

Management
of
the
Company.

4. For the purposes of enabling the Company to function as a Government company in which the entire share capital is held by the Central Government, the Central Government may, by notification in the Official Gazette, make such provisions (including amendments in the memorandum and articles of association of the Company) as it may consider necessary and the provisions so made shall have effect notwithstanding anything contained in the Companies Act, 1956.

payment
of
amounts

5. (1) Every shareholder whose shares in the capital of the Company are transferred to, and vested in, the Central Government under section 3 shall, for such transfer and vesting, be given by that Government, in cash and in the manner specified in section 6, an amount calculated at the rate of rupees ten per share.

(2) The amount payable to a shareholder under sub-section (1) shall carry simple interest at the rate of five and a half per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the shareholder or where such amount has been deposited under sub-section (4) of section 6, on the date on which it is so deposited.

Manner of
payment
of
amounts.

6. (1) The amounts payable to a shareholder in accordance with the provisions of section 5 shall be given to him in cash to be paid by cheque drawn on the Reserve Bank of India.

(2) A shareholder may make an application, in writing, to the Central Government for the payment of the amounts payable to him.

(3) On the receipt of an application under sub-section (2), the Central Government shall, after making such investigation as may, in its opinion, be necessary, make the payment.

(4) If any dispute arises as to the person entitled to receive the amounts payable in respect of any share, the Central Government shall deposit the

amount in the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated for being paid to the person or persons entitled to be paid.

7. 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.

8. (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.

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 1984

No. 34 OF 1984

[26th May, 1984.]

An Act further to amend the Essential Commodities Act, 1955.

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

Short title and commencement.

Inser-
tion of
new
section
7A.

Power
of Cen-
tral
Govern-
ment to
recover
certain
amounts
as arrears
of land
revenue.

1. (1) This Act may be called the Essential Commodities (Amendment) Act, 1984.

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

2. After section 7 of the Essential Commodities Act, 1955, the following section shall be inserted, namely:—

“7A. (1) Where any person, liable to—

(a) pay any amount in pursuance of any order made under section 3, or

(b) deposit any amount to the credit of any Account or Fund constituted by or in pursuance of any order made under that section,

makes any default in paying or depositing the whole or any part of such amount, the amount in respect of which such default has been made shall [whether such order was made before or after the commencement of the Essential Commodities (Amendment) Act, 1984, and whether the liability of such person to pay or deposit such amount arose before or after such commencement] be recoverable by Government together with simple interest due thereon computed at the rate of six per cent. per annum from the date of such default to the date of recovery of such amount, as an arrear of land revenue.

(2) The amount recovered under sub-section (1) shall be dealt with in accordance with the order under which the liability to pay or deposit such amount arose.

(3) Notwithstanding anything contained in any other law for the time being in force or any contract to the contrary, no court,

¹ 1st July 1984. Vide Notification No. G. S. R. 485 (E) dated 1-7-1984 Gazette of India Extraordinary 1984 Part-II Section 3 (i).

tribunal or other authority shall grant any injunction or make any order prohibiting or restraining any Government from recovering any amount as an arrear of land revenue in pursuance of the provisions of sub-section (1).

(4) If any order, in pursuance of which any amount has been recovered by Government as an arrear of land revenue under sub-section (1) is declared by a competent court, after giving to the Government a reasonable opportunity of being heard, to be invalid, the Government shall refund the amount so recovered by it to the person from whom it was recovered, together with simple interest due thereon, computed at the rate of six per cent. per annum, from the date of recovery of such amount to the date on which such refund is made.

Explanation.—For the purposes of this section, "Government" means the Government by which the concerned order under section 3 was made or where such order was made by an officer or authority subordinate to any Government, that Government.'

Rep. by Act

19.....of 1983 S.2
S.1.

THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT ACT, 1984

No. 35 of 1984

[26th May, 1984.]

An Act further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

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

Short title and commencement.

Amendment of Section 5A.

1. (1) This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1984.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In section 5A of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the principal Act)—

40 of 1971.

(a) in sub-section (1), in clause (a), for the words "other structure or fixture", the words, "any movable or immovable structure or fixture" shall be substituted;

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

"(2) Where any building or other immovable structure or fixture has been erected, placed or raised on any public premises in contravention of the provisions of sub-section (1), the estate officer may serve upon the person erecting such building or other structure or fixture a notice requiring him either to remove, or to show cause why he shall not remove such building or other structure or fixture from the public premises within such period, not being less than seven days, as he may specify in the notice; and on the omission or refusal of such person either to show cause, or to remove such building or other structure or fixture from the public premises, or where the cause shown is not, in the opinion of the estate officer, sufficient, the estate officer may, by order, remove or cause to be removed the building or other structure or fixture from the public premises and recover the cost of such removal from the person aforesaid as an arrear of land revenue.

¹ All the provision of this Act shall come into force on 13th November 1984. Vide Notification No. S. O. 761 (E) dated 12-11-1984. Gazette of India Extraordinary 1984 Part-II Sec. 3 (ii).

(3) Where any movable structure or fixture has been erected, placed or raised, or any goods have been displayed or spread, or any cattle or other animal has been brought or kept, on any public premises, in contravention of the provisions of sub-section (1) by any person, the estate officer may, by order, remove or cause to be removed without notice, such structure, fixture, goods, cattle or other animal, as the case may be, from the public premises and recover the cost of such removal from such person as an arrear of land revenue.”.

3. In section 5B of the principal Act, in sub-section (1),—

(a) in the opening paragraph, the words, brackets and figure “, not being less than seven days, or more than fifteen days, from the date of publication of the order under sub-section (3)” shall be omitted;

(b) in the proviso, after the words “by means of a notice”, the words “of not less than seven days” shall be inserted.

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

“5C. (1) It shall be lawful for the estate officer, at any time, before or after making an order of demolition under section 5B, to make an order directing the sealing of such erection or work or of the public premises in which such erection or work has been commenced or is being carried on or has been completed in such manner as may be prescribed, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on has, or have been sealed, the estate officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the estate officer under sub-section (2); or

(b) under an order of the appellate officer made in an appeal under this Act.”.

5. In section 9 of the principal Act,—

(a) in sub-section (1), after the words, figure and letter “or section 5B”, the words, figure and letter “or section 5C” shall be inserted;

(b) in sub-section (2),—

(i) in clause (a), the word “and” at the end shall be omitted;

(ii) in clause (b), the word “and” shall be inserted at the end;

Amend-
ment of
section
5B.

Inser-
tion of
new sec-
tion 5C.

Power
to seal
unautho-
rised con-
structions.

Amend-
ment of
section 9.

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

“(c) in the case of an appeal from an order under section 5C, within twelve days from the date of such order.”.

**Amend-
ment of
section
11.**

6. In section 11 of the principal Act,—

(a) sub-sections (1) and (2) shall be renumbered as sub-sections (2) and (3) thereof respectively, and before sub-section (2) as so renumbered, the following sub-section shall be inserted, namely:—

“(1) If any person unlawfully occupies any public premises, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that a person who, having been lawfully in occupation of any public premises by virtue of any authority (whether by way of grant, allotment or by any other mode whatsoever) continues to be in occupation of such premises after such authority has ceased to be valid, shall not be guilty of such offence.”;

(b) in sub-section (2) as so renumbered, for the words “one thousand rupees”, the words “five thousand rupees” shall be substituted;

(c) in sub-section (3) as so renumbered, for the word, brackets and figure “sub-section (1)”, the word, brackets and figure “sub-section (2)” shall be substituted.

**Insertion
of new
section
11A.**

**Offences
under
section 11
to be
cogniz-
able.**

7. After section 11 of the principal Act, the following section shall be inserted, namely:—

“11A. The Code of Criminal Procedure, 1973, shall apply to an offence under section 11 as if it were a cognizable offence—

(i) for the purposes of investigation of such offence, and

(ii) for the purposes of matters, other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person except on the complaint of, or upon information received from,—

(a) a Group A officer as may be appointed by the Central Government, in the case of an offence in relation to the public premises specified in sub-clause (1) of clause (e) of section 2;

(b) an officer equivalent to the rank of a Group A officer of the Central Government or where it is not possible to specify an officer of such equivalent rank, such executive officer as may be appointed by the statutory authority in the case of an offence in relation to the public premises specified in sub-clause (2) of clause (e) of section 2;

APPROVED

(c) such Deputy Commissioner, in the case of an offence in relation to the public premises belonging to the Municipal Corporation of Delhi, as may be appointed by the Administrator of the Union territory of Delhi;

(d) the Secretary, New Delhi Municipal Committee, in the case of an offence in relation to the public premises belonging to the New Delhi Municipal Committee;

(e) the Secretary of a notified area committee, in the case of an offence in relation to the public premises belonging to that committee;

(f) such Director, in the case of an offence in relation to the public premises belonging to the Delhi Development Authority, as may be appointed by the Administrator of the Union territory of Delhi.”

8. In section 13 of the principal Act, in sub-section (1A), after the word, brackets and figure “sub-section (2)”, the words, brackets and figure “or sub-section (3)” shall be inserted.

Amendment of section 13.

9. In section 15 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

Amendment of section 15.

“(cc) the sealing of any erection or work or of any public premises under section 5C, or”.

10. In sub-section (2) of section 18 of the principal Act, after clause (e), the following clause shall be inserted, namely:—

Amendment of section 18.

“(ee) the manner in which the sealing of any erection or work or of any public premises shall be made under sub-section (1) of section 5C;”.

~~REPEALED~~

Rep. by Act.....

19 of 1988, S. 2 & sch. I-

THE PUNJAB STATE LEGISLATURE (DELEGATION OF POWERS) ACT, 1984

No. 36 OF 1984

[26th May, 1984.]

An Act to confer on the President the power of the Legislature of the State of Punjab to make laws.

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

Short title.

1. This Act may be called the Punjab State Legislature (Delegation of Powers) Act, 1984.

Definition.

2. In this Act, "Proclamation" means the Proclamation issued on the 6th day of October, 1983 under article 356 of the Constitution, by the President, and published with the notification of the Government of India in the Ministry of Home Affairs, No. G.S.R. 788(E) of the said date.

Confer-
ment on
the
President of
the
power
of the
State
Legisla-
ture to
make
laws.

3. (1) The power of the Legislature of the State of Punjab to make laws, which has been declared by the Proclamation to be exercisable by or under the authority of Parliament, is hereby conferred on the President.

(2) In the exercise of the said power, the President may, from time to time, whether Parliament is or is not in session, enact, as a President's Act, a Bill containing such provisions as he considers necessary:

Provided that before enacting any such Act, the President shall, whenever he considers it practicable to do so, consult a Committee constituted for the purpose, consisting of thirty members of the House of the People nominated by the Speaker and fifteen members of the Council of States nominated by the Chairman.

(3) Every Act enacted by the President under sub-section (2) shall, as soon as may be after enactment, be laid before each House of Parliament.

(4) Either House of Parliament may, by resolution passed within thirty days from the date on which the Act has been laid before it under sub-section (3) which period may be comprised in one session or in two successive sessions, direct any modifications to be made in the Act and if the modifications are agreed to by the other House of Parliament during the session in which the Act has been so laid before it or the session succeeding, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2):

Provided that nothing in this sub-section shall affect the validity of the Act or of any action taken thereunder before it is so amended.

Rep. by Act

19.....of 1988, S.2,

~~SCREWD~~

THE DELHI RENT CONTROL (AMENDMENT) ACT, 1984

No. 37 OF 1984

[26th May, 1984.]

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

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

1. This Act may be called the Delhi Rent Control (Amendment) Act, 1984.

Short title.

59 of 1958. 2. In the Delhi Rent Control Act, 1958 (hereinafter referred to as the principal Act), after section 38, the following sections shall be inserted, namely:—

Insertion of new sections 38A and 38B.

"38A. (1) For the expeditious disposal of appeals and applications under section 38, the Central Government may, by notification in the Official Gazette, constitute as many Additional Rent Control Tribunals as it deems fit and appoint to each such Additional Rent Control Tribunal (hereinafter referred to as the Additional Tribunal) one person qualified for appointment to the Tribunal in accordance with the provisions of sub-section (5) of that section.

Additional Rent Control Tribunals.

(2) Notwithstanding anything contained in section 38, the Tribunal may, by order in writing,—

(a) specify the appeals or classes of appeals under sub-section (1) of that section which may be preferred to and disposed of by each Additional Tribunal and the classes of cases in which each Additional Tribunal may exercise the powers of the Tribunal under sub-section (4) of that section;

(b) transfer any appeal or proceeding pending before it for disposal to any Additional Tribunal; or

(c) withdraw any appeal or proceeding pending before any Additional Tribunal and dispose it of itself or transfer the appeal or proceeding for disposal to any other Additional Tribunal.

(3) The provisions of sub-sections (2) and (3) of section 38 shall apply in relation to an Additional Tribunal as they apply in relation to the Tribunal.

Power of
High
Court to
transfer
appeals,
etc.

38B. The High Court may also, on an application made to it or otherwise, by order, transfer—

(a) any appeal or proceeding pending before the Tribunal to any Additional Tribunal; or

(b) any appeal or proceeding pending before any Additional Tribunal to the Tribunal or in any other Additional Tribunal.”

Amend-
ment of
sections
39 and 40.

3. In sections 39 and 40 of the principal Act, for the words “the Tribunal”, at each place where they occur, the words “the Tribunal or an Additional Tribunal” shall be substituted.

Amend-
ment of
section
56.

4. In section 56 of the principal Act, 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 DELHI DEVELOPMENT (AMENDMENT) ACT, 1984

No. 38 OF 1984

[27th May, 1984.]

An Act further to amend the Delhi Development Act, 1957.

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

Short title and commencement.

1. (1) This Act may be called the Delhi Development (Amendment) Act, 1984.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment of section 5.

61 of 1957. 2. In section 5 of the Delhi Development Act, 1957 (hereinafter referred to as the principal Act), in sub-section (2), for clause (e), the following clauses shall be substituted, namely:—

"(e) two persons representing the Delhi Electric Supply Committee and the Delhi Water Supply and Sewage Disposal Committee of the said Corporation, of whom—

Amendment of section 29.

(i) one shall be elected by the members of the Delhi Electric Supply Committee from among themselves; and

(ii) one shall be elected by the members of the Delhi Water Supply and Sewage Disposal Committee from among themselves;

(ee) one representative of the Delhi Transport Corporation to be nominated by the Central Government;".

3. In section 29 of the principal Act, in sub-section (1), for the words "shall be punishable with fine which may extend to ten thousand rupees, and in the case of a continuing offence, with further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence", the following shall be substituted, namely:—

"shall be punishable,—

(a) with rigorous imprisonment which may extend to three years, if such development relates to utilising, selling or otherwise dealing with any land with a view to the setting up of a colony without a lay out plan; and

¹ 12th March 1985. *Vide* Notification No. S.O. 186 (E) dated 11-3-1985 (except Section 4 clause (C) of Section 5 and Section 6, 10 and 11) and 24th Feb. 1986. *Vide* Notification No. S.O. 64 (E) dated 21-2-1986 (irrespect of Section 4 clause (C) of Section 5 and Section 6, 10 and 11) Gazette of India Extraordinary part II Section 3 (ii).

(b) with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, in any case, other than those referred to in clause (a)."

Amend-
ment of
section
30.

4. In section 30 of the principal Act,—

(a) sub-section (2) shall be omitted;

(b) in sub-section (3), for the words, brackets and figure "the chairman or the Central Government on the appeal and subject only to such decision the order under sub-section (1) or, as the case may be," the words "the Central Government on the appeal and subject only to such decision" shall be substituted.

Amend-
ment of
section
31.

5. In section 31 of the principal Act,—

(a) in sub-section (2), after the words "place of development", the words "or to seize any construction material, tool, machinery, scaffolding or other things used in such development" shall be inserted;

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

"(2A) Any of the things caused to be seized by the Authority or the officer of the Authority or the competent authority, as the case may be, under sub-section (2) shall, unless the owner thereof turns up to take back such things and pays to the Authority, the officer of the Authority or the competent authority, as the case may be, the charges for the removal or storage of such things, be disposed of by it or him by public auction or in such other manner and within such time as the Authority, the officer of the Authority or the competent authority thinks fit.

(2B) The charges for the removal and storage of the things sold under sub-section (2A) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the fund of the Authority or the competent authority, as the case may be.";

(c) sub-section (7) shall be omitted.

Insertion
of new
sections

31A, 31B,
31C, 31D
and 31E.

Power to
seal un-
authorised
develop-
ment.

6. After section 31 of the principal Act, the following sections shall be inserted, namely:—

'31A. (1) It shall be lawful for the Authority or the competent authority, as the case may be, at any time, before or after making an order for the removal or discontinuance of any development under section 30 or section 31, to make an order directing the sealing of such development in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such development.'

(2) Where any development has been sealed, the Authority or the competent authority, as the case may be, may, for the purpose of removing or discontinuing such development order the seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Authority or the competent authority under sub-section (2); or

(b) under an order of the Appellate Tribunal or the Administrator of the Union territory of Delhi, made in an appeal under this Act.

66 of 1957.

31B. The Appellate Tribunal or Appellate Tribunals constituted under section 347A of the Delhi Municipal Corporation Act, 1957, shall be deemed to be the Appellate Tribunal or Appellate Tribunals for deciding appeals under section 31C, and the provisions of section 347A and section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of that Act.

Appellate
Tribunal.

31C. (1) Any person aggrieved by any of the following orders made under this Act, may prefer an appeal to the Appellate Tribunal, namely:

Appeals.

(a) an order of the Authority granting or refusing to grant permission for development under sub-section (3) of section 13;

(b) an order of the Authority or the local authority disposing of any land under section 21;

(c) an order of the Authority in the course of dealing with any nazul land developed by it under section 22;

(d) an order of an officer of the Authority or the competent authority made under sub-section (1) of section 30, for the removal of any development;

(e) an order of the Authority or an officer of the Authority, or the competent authority made under sub-section (1) of section 31, for discontinuing any development;

(f) an order of the Authority or the competent authority made under section 31A, directing the sealing of any development.

(2) An appeal under this section shall be filed within thirty days from the date of the order appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed by rules.

31D. (1) An appeal shall lie to the Administrator of the Union territory of Delhi against an order of the Appellate Tribunal, confirming, modifying or annulling an order of the Authority, officer of the Authority, local authority or competent authority, as the case may be, under this Act.

Appeals
against
orders
of Appel-
late Tri-
bunal.

(2) The provisions of sub-sections (2) and (3) of section 31C and the provisions of section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under the said section 31C.

66 of 1957.

(3) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 31C and subject to such orders of the Administrator or an Appellate Tribunal, an order of the Authority, officer of the Authority, local authority or competent authority referred to in sub-section (1) of that section shall be final.

Explanation.—In sections 30, 31, 31A and 31D, “competent authority” in relation to a local authority means any authority or officer of that local authority empowered or authorised to order demolition or stoppage of buildings or works, in accordance with the provisions made by or under the law governing such local authority.

Bar of jurisdiction of courts.

31E. (1) After the commencement of section 6 of the Delhi Development (Amendment) Act, 1984, no court shall entertain any suit, application or other proceedings in respect of any order appealable under section 31C, and no such order shall be called in question otherwise than by preferring an appeal under that section.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceeding pending in any court immediately before the commencement of section 6 of the Delhi Development (Amendment) Act, 1984, in respect of any order, appealable under section 31C shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force.

Insertion of new section 34A.

7. After section 34 of the principal Act, the following section shall be inserted, namely:—

Certain offences to be cognizable.

“34A. The Code of Criminal Procedure, 1973, shall apply to an offence under sub-section (1) of section 29 as if it were a cognizable offence,—

2 of 1974.

- (i) for the purposes of investigation of such offence, and
- (ii) for the purposes of all matters other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person except on the complaint of, or upon information received from:—

(a) such officer of the Authority not below the rank of a Director as may be appointed by the Administrator of the Union territory of Delhi, if the offence is committed in relation to a development area;

(b) such officer of the Municipal Corporation of Delhi not below the rank of a Deputy Commissioner as may be appointed by the Administrator of the Union territory of Delhi, if the offence is committed in relation

to any area within the local limits of that Corporation;
or

(c) the Secretary, New Delhi Municipal Committee, if the offence is committed in relation to any area within the local limits of that Committee:

Provided that no offence which relates to any deviation from the permission, approval or sanction given under section 12 and which could be compounded under the provisions of this Act, shall be cognizable.”.

8. In section 48 of the principal Act, for the words “magistrate of the first class”, the words “Metropolitan Magistrate” shall be substituted.

2 of 1974.

Amend-
ment of
section 48.

9. In section 50 of the principal Act, for the portion beginning with the word and figures “section 32” and ending with the words “first class”, the words and figures “section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any court of a Metropolitan Magistrate” shall be substituted.

Amend-
ment of
section 50.

10. In section 52 of the principal Act, in sub-section (3), after the words “under this Act”, the words “, except the power to hear appeals,” shall be inserted.

Amend-
ment of
section 52.

11. In sub-section (2) of section 56 of the principal Act, after clause (jjj), the following clauses shall be inserted, namely:—

Amend-
ment of
section 56.

“(ja) the manner in which the sealing of any development under sub-section (1) of section 31A shall be made;

(jb) the form in which an appeal shall be made to the Appellate Tribunal under sub-section (3) of section 31C and the fees that shall accompany such appeal;”.

THE PUNJAB MUNICIPAL (NEW DELHI AMENDMENT)
ACT, 1984

No. 39 OF 1984

[27th May, 1984.]

An Act further to amend the Punjab Municipal Act, 1911, as in force
in New Delhi.

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

Short
title
and
com-
mence-
ment.

Amend-
ment of
section 3.

Amend-
ment of
section
170-E.

Amend-
ment of
section
172.

1. (1) This Act may be called the Punjab Municipal (New Delhi Amendment) Act, 1984.

(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.

2. In section 3 of the Punjab Municipal Act, 1911, as in force in New Delhi (hereinafter referred to as the principal Act), after clause (1), the following clause shall be inserted, namely:—

'(1A) "Appellate Tribunal" means an Appellate Tribunal referred to in section 225-A;'

3. In section 170-E of the principal Act, for the words "shall be liable to a fine which may extend to five hundred rupees", the words "shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both" shall be substituted.

4. In section 172 of the principal Act,—

(a) in sub-section (1), for the words "shall be punishable with a fine which may extend to fifty rupees", the following shall be substituted, namely:—

"shall be punishable,—

(a) if such street is a public street, with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and

Punjab
Act III
of 1911.

¹ 10th Dec. 1985 *Vide* Notification No. S.O. 870 (E) dated 2-12-1985 (except Section 2, 10 to 12, 14 and 15 Gazette of India Extra ordinary 1985 part II, Sec. 3 (ii) and 10th Feb. 1986, *Vide* Notification No. S.O. 42 (E) dated 4-2-1986 (in respect of Sec. 2, 10, 11, 12, 14 and 15), Gazette of India, Extraordinary, 1986 part I, Sec. 3 (ii).

- (b) in any other case, with fine which may extend to fifty rupees";
- (b) in sub-section (2), the proviso shall be omitted.

5. In section 173 of the principal Act,—

(a) in sub-section (1), after the word "street", wherever it occurs, the words "or public place" shall be inserted;

(b) in sub-section (2),—

(i) in the opening portion, for the words "shall be punishable with fine which may extend to fifty rupees", the following shall be substituted, namely:—

"shall be punishable,—

(a) if any such act is done in relation to a public street, with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and

(b) if any such act is done in relation to a street other than a public street, or to a public place, with fine which may extend to fifty rupees";

(ii) in clause (ii), after the word "street", the words "or public place" shall be inserted.

6. In section 174-A, section 175 and clause (e) of sub-section (1) of section 190 of the principal Act, after the word "street", wherever it occurs, the words "or public place" shall be inserted.

Amend-
ment of
sections
174-A,
175 and
190.

7. In section 192-A of the principal Act, for the portion beginning with the words "on conviction by a magistrate be liable to fine" and ending with the words "fifty rupees for every day during which such use continues", the following shall be substituted, namely:—

"be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both".

8. Section 195 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so renumbered, for the words "delivered to the owner within six months from the completion of the building", at both the places where they occur, the words "delivered to the owner or occupier of that building" shall be substituted;

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

"(2) Any person who begins, erects or re-erects any building as described in sub-section (1), shall be punishable with

Amend-
ment of
section
195.

simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.”.

Amendment of section 195-A.

9. In section 195-A of the principal Act,—

(a) in sub-section (1), for the words and figures “to be delivered to the owner within six months from the commencement of the building, or from the contravention of the terms of any sanction, or of any bye-law framed under section 190, as the case may be”, the words “delivered to the owner or occupier of that building” shall be substituted;

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

“(2) Any person failing to comply with the terms of such notice shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.”.

Insertion of new sections 195-B and 195-C.

10. After section 195-A of the principal Act, the following sections shall be inserted, namely:—

Power to seal unauthorised constructions.

“195-B. (1) It shall be lawful for the committee, at any time, before or after delivering the notice to the owner or occupier of a building under section 195 or section 195-A, to make an order directing the sealing of such building, in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of erection or re-erection of such building.

(2) Where any building has been sealed, the committee may, for the purpose of altering or demolishing such building, order the seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the committee under sub-section (2); or

(b) under an order of the Appellate Tribunal, or the Administrator of the Union territory of Delhi, made in an appeal under this Act.

Power to seize materials, etc, used in unauthorised construction.

195-C. (1) Where any building is begun, erected or re-erected as described in section 195, the committee may seize or cause to be seized any construction material, tool, machinery, scaffolding or other things used in such building or in the erection or re-erection thereof, and shall, unless the owner or occupier of such building turns up to take back such things and pays to the committee the charges for the removal or storage of such things, be disposed of by the committee by public auction or in such other manner and within such time as the committee thinks fit.

(2) The charges for the removal and storage of the things sold under sub-section (1) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner or occupier of the building on a claim being made therefor within a period of two years from the date of sale, and if no such claim is made within the said period, shall be credited to the municipal fund.”

11. In section 225 of the principal Act, in sub-section (1), clauses (a) and (b) shall be omitted.

12. After section 225 of the principal Act, the following sections shall be inserted, namely:—

66 of 1957.

“225-A. The Appellate Tribunal or Appellate Tribunals constituted under section 347A of the Delhi Municipal Corporation Act, 1957 shall be deemed to be the Appellate Tribunal or Appellate Tribunals for deciding appeals under section 225-B, and the provisions of the said section 347A and section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder shall, with necessary modifications, apply for the purposes of this Act as they apply for the purposes of that Act.

225-B. (1) Any person aggrieved by any of the following orders or notices, may prefer an appeal against such order or notice to the Appellate Tribunal, namely:—

(a) an order under section 170-C refusing or according sanction to the proposed street; or

(b) a notice under section 171 requiring a street to be levelled, paved, metalled, flagged, channelled, drained, cleaned or provided with proper means of lighting, or declaring a street to be a public street; or

(c) a notice under sub-section (2) of section 172 requiring removal or alteration of an immovable encroachment or immoveable overhanging structure; or

(d) an order under section 173 requiring removal of a movable encroachment, movable overhanging structure or any other obstruction or encroachment or for doing any other act thereunder; or

(e) a notice under section 174, requiring any building or any part thereof to be set back to or towards the regular line of a street or an order for the payment of compensation or an order for any building to be set forward for the improvement of the line of a street; or

(f) an order under section 193 sanctioning or refusing to sanction erection or re-erection of a building; or

Amendment of section 225.

Insertion of new sections
225-A,
225-B,
225-C and
225-D.

Appellate Tribunal.

Appeals to the Appellate Tribunal.

- (g) an order under section 193-A requiring modification of the building under construction; or
- (h) a notice under sub-section (1) of section 195 requiring alteration or demolition of a building; or
- (i) a notice under section 195-A requiring building operations to be discontinued; or
- (j) an order under section 195-B requiring sealing of any unauthorised construction; or
- (k) an order under section 195-C requiring seizure or disposal of any construction material, tool, machinery, scaffolding or other things; or
- (l) an order refusing to pay any compensation or to pay such compensation as claimed under the provisions of this Act; or
- (m) any such other order or notice relating to or arising out of planned development under the provisions of this Act as may be prescribed by rules.

(2) An appeal under this section shall be filed within thirty days from the date of the order or notice appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order or notice appealed against and by such fees as may be prescribed by rules.

**Appeal
against
orders of
Appellate
Tribunal.**

225-C. (1) An appeal shall lie to the Administrator of the Union territory of Delhi against an order of the Appellate Tribunal confirming, modifying or annulling an order or notice made or issued under this Act.

(2) The provisions of sub-sections (2) and (3) of section 225-B and the provisions of section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under the said section 225-B.

(3) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 225-B, and subject to such orders of the Administrator or an Appellate Tribunal, an order or notice referred to in sub-section (1) of that section, shall be final.

**Bar of
jurisdi-
ction of
courts.**

225-D. (1) After the commencement of section 12 of the Punjab Municipal (New Delhi Amendment) Act, 1984, no court shall entertain any suit, application or other proceedings in respect of any order or notice appealable under section 225-B and no such order or

notice shall be called in question otherwise than by preferring an appeal under that section.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceeding pending in any court immediately before the commencement of section 12 of the Punjab Municipal (New Delhi Amendment) Act, 1984, in respect of any order or notice appealable under section 225-B shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force."

13. In the principal Act, under the heading "*Offences and Prosecutions*", and before section 228, the following section shall be inserted, namely:—

2 of 1974.

"227-A. The Code of Criminal Procedure, 1973, shall apply to an offence under section 170-E, or clause (a) of sub-section (1) of section 172, or clause (a) of sub-section (2) of section 173, or section 192-A, or sub-section (2) of section 195, or sub-section (2) of section 195-A as if it were a cognizable offence—

- (i) for the purposes of investigation of such offence; and
- (ii) for the purposes of all matters other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person except on the complaint of, or upon information received from, such officer of the committee, not being below the rank of the Secretary to the committee, as may be appointed by the Administrator of the Union territory of Delhi:

Provided that no offence of beginning, erecting or re-erecting any building in contravention of any condition subject to which any sanction was granted by the committee shall be cognizable, if such contravention relates to any deviation from any plan of erection or re-erection of that building sanctioned by the committee which is compoundable on payment of an amount under this Act."

14. Section 228 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) No court shall take cognizance of an offence punishable under section 170-E, or clause (a) of sub-section (1) of section 172, or clause (a) of sub-section (2) of section 173, or section 192-A, or sub-section (2) of section 195 or sub-section (2) of section 195-A except on the complaint of, or upon information received from, such officer of the committee, not being below the rank of the Secretary to the committee, as may be appointed by the Administrator of the Union territory of Delhi."

15. In section 240 of the principal Act,—

(a) in sub-section (1), after clause (v), the following clauses shall be inserted, namely:—

"(va) the manner in which the sealing of any building under sub-section (1) of section 195-B shall be made;

Insertion
of new
section
227-A.

Certain
to be
cogniz-
able.

Amend-
ment of
section
228.

Amend-
ment of
section
240.

330. *Punjab Municipal (New Delhi Amendment)* [ACT 39 OF 1984]

(vb) the order or notice relating to or arising out of planned development under the provisions of this Act against which an appeal shall be preferred to the Appellate Tribunal under clause (m) of sub-section (1) of section 225-B;

(vc) the form in which an appeal shall be made to the Appellate Tribunal under sub-section (3) of section 225-B and the fees that shall accompany such appeal;"

(b) 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."

Rep. by Act..... 11..... 1988, s.2 & sch.I

THE EXPORT (QUALITY CONTROL AND INSPECTION)
AMENDMENT ACT, 1984.

No. 40 OF 1984

[27th May, 1984.]

An Act to amend the Export (Quality Control and Inspection) Act, 1963.

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

1. (1) This Act may be called the Export (Quality Control and Inspection) Amendment Act, 1984.

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

22 fo 1963. 2. In section 2 of the Export (Quality Control and Inspection) Act, 1963 (hereinafter referred to as the principal Act), clause (a) shall be re-lettered as clause (ac), and before clause (ac) as so re-lettered, the following clauses shall be inserted, namely:—

(a) "adjudicating authority" means the authority specified in, or under, section 10K;

(ab) "Appellate authority" means the Appellate authority referred to in section 10M;

3. In section 3 of the principal Act, in sub-section (1), in clause (f), for the word "eleven", the word "fifteen" shall be substituted.

4. In section 7 of the principal Act,—

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

"(3A) Where the agency has reason to believe that a certificate issued under sub-section (3) has been obtained fraudulently or by misrepresentation, or the commodity in relation to which the certificate is issued has been changed or has deteriorated in quality, the agency may, by order, amend, suspend or cancel the certificate in such manner and subject to such procedure as may be prescribed;

Short title and commencement.

Amendment of section 2.

Amendment of section 3.

Amendment of section 7.

¹, 2nd July 1984. *Vide* Notification No. S.O. 549 (E), dated 2-7-1984, Gazette of India, Extraordinary 1984, Part II, Section 3 (ii).

Provided that before amending, suspending or cancelling any such certificate the holder thereof shall be given a reasonable opportunity of being heard.”;

(b) in sub-section (4), after the words “a certificate”, the words, brackets, figure and letter “, or by the amendment, suspension or cancellation of a certificate under sub-section (3A)”, shall be inserted.

Inser-
tion of
new
sections
10A to 10P.

Power
to enter
and
inspect.

5. After section 10 of the principal Act, the following sections shall be inserted, namely:—

‘10A. The Director of Inspection and Quality Control or any officer of the Central Government authorised by him in writing in this behalf (hereinafter referred to as the “authorised officer”) may enter, at any reasonable time, any premises in which—

(a) any commodity which has been changed after inspection by any agency referred to in sub-section (1) of section 7; or

(b) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act,

are suspected to have been kept or concealed, and inspect such commodity, books of account, other documents or things and may take such notes or extracts from such books of account or other documents as he may think fit.

Power to
search.

10B. If the authorised officer has any reason to believe that—

(a) any commodity which has been changed after inspection by any agency referred to in sub-section (1) of section 7; or

(b) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act,

are secreted in any place, he may enter into and search such place or premises for such commodity, books of account, other documents or things.

Power to
seize
commo-
dities,
etc.

10C. (1) If the authorised officer has any reason to believe that any commodity is liable to confiscation under this Act, he may seize such commodity together with the package, covering or receptacle, if any, in which such commodity is found, and where such commodity is found to have been mixed with any other goods or materials, he may seize such commodity together with the goods or materials with which it is so mixed:

Provided that where it is not practicable to seize any such commodity, the authorised officer may serve on the owner of the commodity an order that he shall not remove, part with, or otherwise deal with, the commodity except with the previous permission of such authorised officer.

(2) Where any commodity is seized under sub-section (1) and no notice in respect thereof is given under section 10L within six months of the seizure of such commodity, it shall be returned to the person from whose possession it was seized:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Director of Inspection and Quality Control by a further period not exceeding six months.

(3) The authorised officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised officer.

(5) If any person legally entitled to the documents or things seized under sub-section (3) objects, for any reason, to the retention by the authorised officer of the documents or things, he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the documents or things.

(6) On receipt of an application under sub-section (5), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

(7) Where any document—

(a) is produced or furnished by any person or has been seized from the custody or control of any person under this Act or any other law for the time being in force; or

(b) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed) in the course of the investigation of any offence alleged to have been committed by any person against this Act,

and such document is tendered in evidence against the person by whom it is produced or from whom it was seized or against such person and any other person who is jointly tried, or proceeded against, with him, the court, or, as the case may be, the adjudicating authority shall, notwithstanding anything to the contrary contained in any other law for the time being in force,

(i) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court or the adjudicating authority may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is under that person's handwriting, and, in the case of a document executed or attested, it was executed or attested by the person by whom it purports to have been so executed or attested;

(ii) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Power
to stop
and seize
con-
veyan-
ces.

10D. Any authorised officer may, if he has any reason to suspect that any conveyance or animal is being, or is about to be, used for the transportation of any commodity which is liable to confiscation under this Act and that by such transportation any provision of this Act has been, is being, or is about to be, contravened, at any time, stop such conveyance or animal or, in the case of an aircraft, compel it to land, and

- (a) rummage and search the conveyance or any part thereof,
- (b) examine and search any goods or materials in the conveyance or on the animal,
- (c) if it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it and where such means fail, the conveyance or animal may be fired upon,

and where he is satisfied that it is necessary so to do to prevent the contravention of any provision of this Act, he may seize such conveyance or animal.

Explanation.—Any reference in this section to a conveyance shall, unless the context otherwise requires, be construed as including a reference to an aircraft, vehicle or vessel.

Search
and
seizure
to be
made in
accord-
ance
with
the
Code of
Criminal
Proce-
dure,
1973.

2 of 1974

10E. The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

Confis-
cation.

10F. Any commodity in respect of which—

- (a) a certificate has been obtained from an agency referred to in sub-section (1) of section 7 fraudulently or by misrepresentation, or
- (b) any provision of this Act has been, is being, or is attempted to be, contravened,

shall, together with any package, covering or receptacle in which such commodity is found, be liable to confiscation and, where such commodity is so mixed with any other goods or materials that it cannot be readily separated, such other goods or materials shall also be liable to confiscation:

Provided that where it is established to the satisfaction of the adjudicating authority that any commodity, which is liable to confiscation under this Act, belongs to a person other than the person who has, by any act or omission, rendered it liable to confiscation, and such act or omission was without the knowledge or connivance of the person to whom it belongs, such commodity shall not be ordered to be confiscated; but such other action as is authorised by this Act may be taken against the person who has, by such act or omission, rendered such commodity liable to confiscation.

10G. Any conveyance or animal which has been, is being, or is attempted to be, used for the transport of any commodity which is liable to confiscation under this Act, shall be liable to confiscation unless the owner of the conveyance or animal proves that it was, is being, or is about to be, so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use:

Provided that in the case of a conveyance or animal used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay, in lieu of confiscation of the conveyance or animal, a fine not exceeding the value of the commodity which has been, is being, or is attempted to be, transported by such conveyance or animal.

10H. Whenever confiscation of any commodity is authorised by this Act, the officer adjudging it shall, without prejudice to the provisions of the proviso to section 10G, give to the owner of the commodity an option to pay in lieu of confiscation such fine not exceeding the value of the commodity.

10-I. Any person,—

(a) who, in relation to any commodity, does or omits to do any act which act or omission would render such commodity liable to confiscation under this Act, or abets the doing or omission of such an act; or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, keeping, concealing, selling or purchasing, or in any manner dealing with, any commodity which he knows or has reason to believe is liable to confiscation under this Act,

shall be liable to a penalty not exceeding five times the value of the commodity or five thousand rupees, whichever is more, whether or not such commodity has been confiscated or is available for confiscation.

10J. No confiscation made or penalty imposed under the foregoing provisions of this Act shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

10K. Any confiscation may be adjudged or penalty may be imposed under this Act by the Director of Inspection and Quality Control, or, where he so directs, by a general or special order, by any officer subordinate to him.

10L. No order of adjudication of confiscation or imposing a penalty shall be made unless the owner of the commodity, conveyance or animal or other person concerned, is given a notice in writing—

(a) informing him of the grounds on which it is proposed to confiscate such commodity, conveyance or animal or to impose a penalty;

Confiscation of conveyance.

Option to pay fine in lieu of confiscation.

Liability to penalty.

Confiscation or penalty not to interfere with other punishments.

Adjudication.

Giving of opportunity to the owner of goods, etc.

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the confiscation or imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

Appeal.

10M. (1) Any person aggrieved by any decision or order made under this Act may prefer an appeal,—

(a) where the decision or order has been made by the Director of Inspection and Quality Control, to the Central Government;

(b) where the decision or order has been made by any officer subordinate to the Director of Inspection and Quality Control, to the Director of Inspection and Quality Control,

within a period of forty-five days from the date on which the decision or order is served on such person:

Provided that the Appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period of forty-five days, allow such appeal to be preferred within a further period of forty-five days:

Provided further that in the case of an appeal against an order imposing a penalty, no such appeal shall be entertained unless the amount of the penalty has been deposited by the appellant:

Provided also that where the Appellate authority is of the opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further inquiries, if any, as it may consider necessary, pass such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing or imposing a penalty or confiscating commodity of a greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and, if he so desires, of being heard, in his defence.

Powers of revision.

10N. The Central Government may, on its own motion or otherwise, call for and examine the records of any proceeding in which an order of adjudication of confiscation or imposing any penalty has been made by any officer under this Act and against which no appeal has been preferred, for the purpose of satisfying itself as to the correctness, legality or propriety of such order or decision and pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence.

10-O. (1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a Civil Court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

10P. (1) Where a penalty has been imposed by the adjudicating authority and—

(a) no appeal against the order imposing such penalty has been preferred to the Appellate authority and the person entitled to file such appeal dies or is adjudicated an insolvent before the expiry of the period within which the appeal can be preferred; or

(b) an appeal has been preferred to the Appellate authority against the order imposing such penalty but the appellant dies or is adjudicated an insolvent during the pendency of the appeal,

then, it shall be lawful for the legal representatives, of such person or the Official Assignee or the Official Receiver, as the case may be, to prefer an appeal to the Appellate authority or, as the case may be, to continue the appeal before the Appellate authority, in place of such person and the provisions of section 10M shall, so far as may be, apply or continue to apply to such appeal.

(2) The powers of the Official Assignee or the Official Receiver under sub-section (1) shall be exercised by him subject to the provisions of the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, as the case may be.'

3 of 1909.
5 of 1920.

6. In sub-section (1) of section 11 of the principal Act, in clause (ii), for the words "two years", the words "three years" shall be substituted.

Powers of
adjudicat-
ing and
other
autho-
rities.

Continu-
ance of
proceed-
ings in
the
event of
death or
insol-
vency.

Amend-
ment of
section 11.

~~REPEALED~~

338

Export (Quality Control and Inspection)

[ACT 40
Amendment]

Insertion of new sections 11A, 11B and 11C.

Penalty for contravention of order made by adjudicating authority or Appellate authority.

Offences by officers and employees of agency, etc.

Correction of clerical or arithmetical mistakes.

7. After section 11 of the principal Act, the following sections shall be inserted, namely:—

"11A. If any person fails to pay the penalty imposed by the adjudicating or the Appellate authority or fails to comply with any direction or order made, or deemed to have been made, under this Act, he shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

11B. (1) If any officer or employee of the Council or of any agency referred to in sub-section (1) of section 7, or any surveyor, sampler or employee of any testing house, referred to in sub-section (2) of that section enters into, or acquiesces in, any agreement to do, abstains from doing, permits, conceals or connives at, any act or thing whereby any provision of this Act is or may be contravened, he shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) If any officer searches or authorises any other officer of the Central Government to search any place without having reason to believe that any commodity, books of account or documents or things of the nature referred to in section 10B are secreted in that place, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) If any officer or employee of the Council or of any agency referred to in sub-section (1) of section 7, or any surveyor, sampler or employee of any testing house, referred to in sub-section (2) of that section, except in the discharge in good faith of his duty as such officer or employee or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any commodity, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

11C. Clerical or arithmetical mistakes in any decision or order, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the authority by which the decision or order was made either on its own motion or on the application of the aggrieved person.

Provided that where any correction proposed to be made under this section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable opportunity of making a representation in the matter

or 1984]

*Export (Quality Control and Inspection)
Amendment*

339

and no such correction shall be made after the expiry of a period of two years from the date on which such decision or order was made.”.

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

Insertion
of new
section
16A.

“16A. (1) If the Central Government is satisfied that circumstances exist which render it necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, suspend or relax to a specified extent, the operation of all or any of the provisions of this Act in respect of such notified commodity or commodities generally or in respect of any area and for such period as may be specified in the notification.

Suspension,
etc., of
operation
of the
provi-
sions of
the Act.

(2) Where the operation of any provision of this Act has, under sub-section (1), been suspended or relaxed, such suspension or relaxation may, at any time, be removed by the Central Government by a like notification.

(3) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two 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 issued, 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.”.

9. In section 17 of the principal Act,—

Amend-
ment of
section
17.

(a) in sub-section (2),—

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

“(ff) the manner in which, and the procedure subject to which, any certificate issued under sub-section (3) of section 7 shall be amended, suspended or cancelled;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(gg) the authority or person by which or by whom, and the manner in which, any document received from a place outside India shall be authenticated;”;

(b) in sub-section (3), for the words “in which it is so laid”, the words “immediately following the session” shall be substituted.

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1984

No. 41 OF 1984

[27th May, 1984.]

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

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

Short title and commencement.

Amendment of section 3.

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 1984.

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

2. In section 3 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after clause (11), the following clause shall be inserted, namely:—

'(11A) "family" means,—

(i) in the case of male, his wife, his children, whether married or unmarried, his dependent parents and his deceased son's widow and children:

Provided that if a person proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance she shall no longer be deemed to be a part of such person's family for the purpose of this Act, unless such person subsequently intimates by express notice, in writing, to the Central Government that she shall continue to be so regarded; and

(ii) in the case of female, her husband, her children, whether married or unmarried, her dependent parents, her husband's dependent parents and her deceased son's widow and children:

Provided that if a person by notice in writing to the Central Government expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of such person's family for the purpose of this Act, unless such person subsequently cancels in writing any such notice.

¹ 15th July 1985. *Vide* Notification No. S. O. 2834, dated 10-6-1985, Gazette of India, 1985 Part II, Section 3 (ii), and Corrigendum S.O. 698 (E), dt. 30.9.86.
34*

Explanation.—In either of the above two cases, if the child, or, as the case may be, the child of a deceased son, of a person has been adopted by another person and if under the personal law of the adopter adoption is legally recognised, such a child shall be considered as excluded from the family of the first mentioned person.”

3. In section 24 of the principal Act, the following proviso shall be inserted at the end, namely:—

“Provided that subject to such order as the Central Government may issue in this behalf, when the office of registrar of Indian ships at any port is vacant or the holder of such office is on leave or is not available, for any reason, at the port to exercise and discharge the powers, duties and functions of the office, the seniormost surveyor at that port may act as, and exercise and discharge the powers, duties and functions of, the registrar of Indian ships at that port.”

4. In sub-section (1) of section 101 of the principal Act, for the words “signed by the master”, the words “signed by the owner or agent and the master” shall be substituted.

5. For section 102 of the principal Act, the following section shall be substituted, namely:—

“102. Notwithstanding anything contained in any other provision of this Act, the master of a ship registered at a port outside India who has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, may engage in any port in India.—

(a) a seaman who is not a citizen of India and who holds a continuous discharge certificate or any other similar document of identity issued by the competent authority of the country in which the ship is registered or, as the case may be, of the country in which the said agreement was made; or

(b) a seaman who is a citizen of India and who holds a certificate of discharge or a continuous certificate of discharge issued under this Act,

and any seaman so engaged under clause (a) or clause (b) may sign the agreement aforesaid and it shall not be necessary for him to sign an agreement under this Act.”

6. In the principal Act, section 105 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) A copy of the statement referred to in sub-section (1) shall also be sent to the seamen’s employment office concerned.”

Amendment of section 24.

Amendment of section 101.

Substitution of new section for section 102.

Engagement of seaman where agreement is made out of India.

Amendment of section 105.

Amend-
ment of
section
108.

7. In section 108 of the principal Act, for the portion beginning with the words "unless proved to have been made" and ending with the words "if made out of India", the following shall be substituted, namely:—

"unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration by the written attestation,—

(a) if in India, of some shipping master or customs collector; or

(b) if outside India, by an Indian consular officer or at any port outside India at which no Indian consular officer is available, any such person as is authorised in this behalf by the Central Government by notification in the Official Gazette".

Insertion
of new
section
130A.

Certain un-
disbursed
amounts
to be uti-
lised for
welfare of
seamen.

8. After section 130 of the principal Act, the following section shall be inserted, namely:—

"130A. Subject to the provisions of section 160 and to such restrictions and conditions as may be prescribed, any amount deposited with or recovered by the shipping master for making payment in accordance with the allotment note made by a seaman or for being paid to a seaman or his nominee may, if such amount remains unclaimed with the shipping master for a period of not less than six years, be utilised for the welfare of seamen in such manner as the Central Government may direct."

Amend-
ment of
section
132.

Amend-
ment of
section
137.

Amend-
ment of
section
141.

Amend-
ment of
section
159.

9. In section 132 of the principal Act, in clause (a) of sub-section (1), for the words "three hundred rupees", the words "three thousand rupees" shall be substituted.

10. In section 137 of the principal Act, in sub-section (1), for the words "one month from the date of the agreement", the words "one month from the date on which the seaman's right to wages begins" shall be substituted.

11. In section 141 of the principal Act, in sub-section (3), for the words "to his legal heirs", the words "to the person nominated by him in this behalf under section 159A or if he has not made any such nomination or the nomination made by him is or has become void to his legal heirs" shall be substituted.

12. In section 159 of the principal Act,—

(a) in the opening portion, for the words "such sums as he thinks proper to allow, may—", the words, figures and letter "such sums as he thinks proper to allow, shall pay and deliver the residue to the person nominated by the seaman or apprentice in this behalf under section 159A and if he has not made any such nomination or the nomination made by him is or has become void, the shipping master may—" shall be substituted;

(b) in clause (b), after the words and figures "the Indian Succession Act, 1925", the words and figures "or a certificate under section 29 of the Administrators-General Act, 1963" shall be inserted.

13. After section 159 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
159A.

"159A. (1) A seaman may, for the purposes of sub-section (3) of section 141 and clause (b) of section 159 and an apprentice may, for the purposes of clause (b) of section 159, nominate any person or persons:

Nomination

Provided that if the seaman or the apprentice has a family, he may nominate for the purposes aforesaid any one or more members of his family only and if a seaman or an apprentice acquires a family after he has made any such nomination, the nomination shall become void.

(2) The form in which any nomination may be made under sub-section (1), the cancellation or variation of any such nomination (including the making of a fresh nomination) and all other matters connected with such nominations shall be such as may be prescribed."

14. In section 160 of the principal Act, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

Amend-
ment of
section
160.

"Provided further that if, before the expiration of six years after the proceeds of the sale have been so paid, no claim is made thereto the amount or any part thereof may be utilised for the welfare of seamen in such manner as the Central Government may direct."

15. After section 177 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
177A.

"177A. (1) The Central Government may, having regard to the provisions of the Convention concerning the Prevention of Occupational Accidents to Seafarers adopted by the General Conference of the International Labour Organisation on the 30th day of October, 1970, make rules so as to ensure safe working conditions for Indian ships and for preventing accidents and different rules may be made for different classes of ships and for ships of the same class in different circumstances.

Power to
make
rules to
prevent
accidents
etc.

(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 manner in which any equipment or gear may be maintained, inspected or tested and conditions as to such maintenance, inspection and testing;

(b) the manner in which the use of any material or process shall be regulated for the manufacture of any such equipment or gear;

(c) the provision of safe means of access to such equipment or gear for the use of seamen and provision of protective clothing for seamen where necessary;

(d) restriction on the hours of employment of seamen in any specified operation or under any specified circumstances; and

(e) the manner and form in which and the persons to whom any accident occurring on board a ship shall be reported.”

Amend-
ment of
section
194.

16. In section 194 of the principal Act, in clause (d), for the words “officer of the ship”, the words “officer of, or a seaman or an apprentice belonging to, the ship” shall be substituted.

Amend-
ment of
section
204.

17. To section 204 of the principal Act, the following proviso shall be added, namely:—

“Provided that the provisions of this section shall not extend to the case in which the harbour or secreting is by the spouse of the seaman or apprentice.”

Amend-
ment of
section
299A.

18. In section 299A of the principal Act, in sub-section (1),—

(a) in the opening portion, the words “of five hundred tons gross or more” shall be omitted;

(b) in clause (a), for the words “if the ship performs international voyages”, the words “if the ship is of five hundred tons gross or more and performs international voyages” shall be substituted.

Amend-
ment of
section
365.

19. In the principal Act, section 365 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) Subject to any rules made in this behalf by the Central Government, the court making an investigation or inquiry under this Part may, if it thinks fit, order the payment, on the part of that Government, of the reasonable expenses of any witness attending for the purposes of such investigation or inquiry before such court.”

Amend-
ment of
section
402.

20. In section 402 of the principal Act, in sub-section (3),—

(a) after the words “Indian Navy”, the words “or of the Coast Guard” shall be inserted;

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

Explanation.—“Coast Guard” means the Coast Guard constituted under section 3 of the Coast Guard Act, 1978.

Insertion
of new
sections
434A and
434B.

Insurance
of mem-
bers of
crew of
a sailing
vessel.

21. After section 434 of the principal Act, the following sections shall be inserted, namely:—

“434A. (1) Subject to the other provisions of this section and the scheme framed under sub-section (3), the owner of every sailing vessel shall take and keep in force, in accordance with the provisions of the said scheme, a policy of insurance whereby all the members of the crew of such vessel are insured against death or personal injury caused by accident in the course of employment as such members.

(2) It shall be the responsibility of the owner of every sailing vessel to bear the expenses incidental to the taking of the policy of insurance referred to in sub-section (1) and to pay the premiums for keeping it in force:

Provided that the maximum amount which the owner of the sailing vessel shall be liable to pay by way of premiums per year shall not exceed—

(a) where the number of members of the crew is not more than ten, one hundred and fifty rupees;

(b) where the number of members of the crew is more than ten, a sum calculated at the rate of fifteen rupees for each member of the crew.

(3) The Central Government may, by notification in the Official Gazette, frame a scheme providing for the insurance of all persons employed as members of the crew of sailing vessels against death or personal injury caused by accident arising in the course of their employment as such members.

(4) Without prejudice to the generality of the provisions of sub-section (3), a scheme framed under that sub-section may provide for—

(a) the amount which should be payable in the case of personal injury resulting in the death of a member of the crew of a sailing vessel due to accident and in the case of other injuries:

Provided that different amounts may be provided in respect of different personal injuries not resulting in death;

(b) the procedure for payment of such amounts; and

(c) all other matters necessary for giving effect to the scheme.

(5) Where, under the provisions of any other law for the time being in force, compensation is payable in respect of death or personal injury sustained by a member of the crew of a sailing vessel as a result of an accident in the course of his employment as such member, then if the amount payable in respect of such death or personal injury in accordance with the scheme framed under this section—

(a) is equal to, or more than, the compensation payable under such other law, no compensation shall be payable under such other law;

(b) is less than the compensation payable under such other law, the compensation payable under such other law shall be reduced by the said amount.

(6) Every scheme framed by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of

thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

434B. (1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of the members of the crew of the vessel a policy of insurance complying with the requirements of section 434A and the scheme framed thereunder.

(2) No customs collector shall grant a port clearance to a sailing vessel until after production by the owner of such a policy of insurance.”.

22. In section 436 of the principal Act, in the Table, the existing serial number 137 shall be re-numbered as serial number 136A, and after serial number 136A as so re-numbered, the following serial number and the entries relating thereto shall be inserted, namely:—

1	2	3	4
“137	If the owner fails to comply with sub-section (1) of section 434A	434A(1)	Imprisonment which may extend to six months, or fine which may extend to five thousand rupees, or both.”.

Policy of insurance.

Amendment of section 436.

THE DELHI MUNICIPAL CORPORATION (AMENDMENT)
ACT, 1984

No. 42 OF 1984

[2nd June, 1984.]

An Act further to amend the Delhi Municipal Corporation Act, 1957

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

1. (1) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1984.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and different dates² may be appointed for different provisions of this Act.

66 of 1957.

2. In section 2 of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act), after clause (1), the following clause shall be inserted, namely:—

(1A) "Appellate Tribunal" means an Appellate Tribunal constituted under section 347A;.

3. In section 343 of the principal Act,—

(a) in sub-section (2), for the words "the court of the district judge of Delhi", the words "the Appellate Tribunal" shall be substituted;

(b) in sub-section (3),—

(i) in the opening portion, for the words "the court of the district judge may", the words, brackets, figures and letter "the Appellate Tribunal may, subject to the provisions of sub-section (3) of section 347C," shall be substituted;

(ii) in the proviso, for the words "the court of the district judge unless security, sufficient in the opinion of the court", the words "the Appellate Tribunal unless security, sufficient in the opinion of the said Tribunal" shall be substituted;

(c) in sub-section (4), for the words "Save as provided in this section, no court", the words "No court" shall be substituted;

¹10th December 1985 *vide* Notification No. S.O. 869 (E), dated 2-12-1985 (except Sections 2, 3, 6 to 9), Gazette of India, Extraordinary, 1985 Part II Sec. 3 (ii)

(d) in sub-section (5), for the words "Every order made by the court of the district judge on appeal and subject only to such order", the words, figures and letter "Subject to an order made by the Administrator on appeal under section 347D, every order made by the Appellate Tribunal on appeal under this section, and subject to the orders of the Administrator and the Appellate Tribunal on appeal" shall be substituted;

(e) in sub-section (6)—

(i) for the words "has been confirmed on appeal, whether with or without variation", the words "has been confirmed on appeal, whether with or without variation, by the Appellate Tribunal in a case where no appeal has been preferred against the order of the Appellate Tribunal, and by the Administrator in a case where an appeal has been preferred against the order of the Appellate Tribunal" shall be substituted;

(ii) for the words "the court of the district judge", the words "the Appellate Tribunal or the Administrator" shall be substituted.

Amend-
ment of
section
344.

4. In section 344 of the principal Act,—

(a) in sub-section (2), after the words "from the premises", the words "or to seize any construction material, tool, machinery, scaffolding or other things used in the erection of any building or execution of any work" shall be inserted;

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

"(2A) Any of the things caused to be seized by the Commissioner under sub-section (2) shall be disposed of by him in the manner specified in section 326."

Amend-
ment of
section
345.

5. In section 345 of the principal Act, in sub-section (1), for the words "within three months after the completion thereof, by a written notice", the words "after the completion thereof, by a written notice of not less than seven days" shall be substituted.

Insertion
of new
section
345A.

Power
to seal
unautho-
rised
con-
structions.

6. After section 345 of the principal Act, the following section shall be inserted, namely:—

"345A. (1) It shall be lawful for the Commissioner, at any time, before or after making an order of demolition under section 343 or of the stoppage of the erection of any building or execution of any work under section 343 or under section 344, to make an order directing the sealing of such erection or work or of the premises in which such erection or work is being carried on or has been completed in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on, has or have been sealed, the Commissioner may, for the purpose of demolishing such erection

or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Commissioner under sub-section (2); or

(b) under an order of an Appellate Tribunal or the Administrator, made in an appeal under this Act.”

7. After section 347 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
347A to
347E.

“347A. (1) The Central Government shall, by notification in the Official Gazette, constitute one or more Appellate Tribunals with headquarters at Delhi, for deciding appeals preferred under section 343 or section 347B.

(2) An Appellate Tribunal shall consist of one person to be appointed by the Central Government on such terms and conditions of service as may be prescribed by rules.

(3) A person shall not be qualified for appointment as the presiding officer of an Appellate Tribunal unless he is, or has been, a district judge or an additional district judge or has, for at least ten years, held a judicial office in India.

(4) The Central Government may, if it so thinks fit, appoint one or more persons having special knowledge of, or experience in, the matters involved in such appeals, to act as assessors to advise the Appellate Tribunal in the proceedings before it, but no advice of the assessors shall be binding on the Appellate Tribunal.

(5) The Central Government shall, by notification in the Official Gazette, define the territorial limits within which an Appellate Tribunal shall exercise its jurisdiction, and where different Appellate Tribunals have jurisdiction over the same territorial limits, the Central Government shall also provide for the distribution and allocation of work to be performed by such Tribunals.

(6) For the purpose of enabling it to discharge its functions under this Act, every Appellate Tribunal shall have a Registrar and such other staff on such terms and conditions of service as may be prescribed by rules:

Provided that the Registrar and staff may be employed jointly for all or any number of such Tribunals in accordance with the rules.

347B. (1) Any person aggrieved by any of the following orders made or notices issued under this Act, may prefer an appeal against such order or notice to the Appellate Tribunal, namely:—

(a) an order according or disallowing sanction to a lay-out plan under section 313;

(b) an order directing the alteration or demolition of any street under section 314;

Appel-
late
Tribunal.

Appeals
against
certain
orders or
notices
issued
under
the Act.

- (c) a notice under sub-section (1) of section 315;
- (d) a notice under sub-section (2) of section 317;
- (e) an order directing the disposal of things removed under Chapter XV or seized under section 344, or an order rejecting the claim of any person for the balance of the proceeds of sale of the things so disposed of;
- (f) an order sanctioning or refusing to sanction the erection of any building or the execution of any work under section 336;
- (g) an order withholding sanction under the proviso to sub-section (1) of section 337;
- (h) an order cancelling a sanction under section 338;
- (i) an order requiring the rounding off, splaying or cutting off the height of a building intended to be erected, or for the acquisition of any portion of a site, under section 339;
- (j) an order disallowing the erection of any building or the execution of any work under section 340;
- (k) an order requiring the stoppage of any erection or work under section 344;
- (l) an order requiring the alteration of any building or work under section 345;
- (m) an order directing the sealing of unauthorised constructions under section 345A;
- (n) an order refusing to grant permission under sub-section (2) of section 346;
- (o) an order granting or refusing permission under section 347;
- (p) any such other order or notice relating to or arising out of planned development under the provisions of this Act as may be prescribed by rules.

(2) An appeal under this section shall be filed within thirty days from the date of the order or notice appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order or notice appealed against and by such fees as may be prescribed by rules.

347C. (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order or notice appealed against or may refer the case back to the authority or officer against whose order or notice the appeal

is filed, for a fresh order or notice, after taking additional evidence, if necessary, or such other action as the Appellate Tribunal may specify.

(2) The Appellate Tribunal shall send a copy of every order passed by it to the parties to the appeal.

(3) No Appellate Tribunal shall, in any appeal pending before it in respect of any order or notice under this Act, make an interim order (whether by way of injunction or stay) against the Corporation or against any officer or servant of the Corporation acting or purporting to act in his official capacity, unless an opportunity is given to the Corporation or its officer or servant to be heard in the matter:

Provided that the Appellate Tribunal may without giving an opportunity as aforesaid make an interim order as an exceptional measure if it is satisfied for reasons to be recorded by it in writing that it is necessary so to do for preventing any loss being caused to the person filing the appeal which cannot be adequately compensated in money:

Provided further that every such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless before the expiry of that period, the Appellate Tribunal confirms or modifies that order after giving to the Corporation or its officer or servant an opportunity of being heard.

(4) Subject to rules that may be made by the Central Government in this behalf, the awarding of damages in and the costs of, and incidental to, any appeal before an Appellate Tribunal, shall be in its discretion and it shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such damages or costs are to be paid and to give, in its order disposing of an appeal, necessary directions for the purposes aforesaid.

(5) An order of the Appellate Tribunal made under this section may be executed or caused to be executed by it on the application of the person in whose favour the order has been made.

(6) In hearing and deciding an appeal or in the execution of an order, an Appellate Tribunal shall follow such procedure as may be prescribed by rules.

(7) Every Appellate Tribunal, shall, in addition to the powers conferred on it under this Act, have the same powers 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:—

- (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 by rules, and every proceeding of an Appellate Tribunal in hearing or deciding an appeal or in connection with the execution of its order, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Panel Code, and every Appellate Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Appeal against orders of Appellate Tribunal.

347D. (1) An appeal shall lie to the Administrator against an order of the Appellate Tribunal, made in an appeal under section 343 or section 347B, confirming, modifying or annulling an order made or notice issued under this Act.

(2) The provisions of sub-sections (2) and (3) of section 347B and section 347C and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under those sections.

(3) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 347B, and subject to such orders of the Administrator or an Appellate Tribunal, an order or notice referred to in sub-section (1) of that section, shall be final.

Bar of jurisdiction of courts.

347E. (1) After the commencement of section 7 of the Delhi Municipal Corporation (Amendment) Act, 1984, no court shall entertain any suit, application or other proceedings in respect of any order or notice appealable under section 343 or section 347B and no such order or notice shall be called in question otherwise than by preferring an appeal under those sections.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceeding pending in any court immediately before the commencement of section 7 of the Delhi Municipal Corporation (Amendment) Act, 1984, in respect of any order or notice appealable under section 343 or section 347B, shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force.”.

**Amend-
ment of
section
452.**

8. In section 452 of the principal Act, in sub-section (1), for the words “refer the case for determination to the court of the district judge of Delhi.”, the following shall be substituted, namely:—

“refer the case for determination—

(a) to the Appellate Tribunal, if such demand relates to the expenses incurred in taking necessary action or steps for the completion of any act or work required to be done or executed in the event of non-compliance with any notice, order or requisition under sections 317, 325, 343, 344 and 345;

(b) to the court of the district judge of Delhi, in any other case.”.

9. In section 456 of the principal Act,—

(a) in sub-section (1), for the portion beginning with the words “complying with any provision” and ending with the words “such application is made”, the following shall be substituted, namely:—

“complying with—

(a) the provisions of section 317, section 325, section 343, section 344, section 345 or section 347 or any bye-law made thereunder or with any notice or order issued under any such provision, apply to the Appellate Tribunal; and

(b) any other provision or any bye-law made thereunder or with any notice, order or requisition issued under such provision, apply to the court of the district judge of Delhi,

and where such application is made”;

(b) in sub-section (2), for the words “The court”, the words “The Appellate Tribunal or the court, as the case may be” shall be substituted.

10. Section 461 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), whoever contravenes the provisions of sub-section (1) of section 317 or sub-section (1) of section 320 or sub-section (1) of section 321 or sub-section (1) of section 325 or section 339, in relation to any street which is a public street, shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.”.

11. After section 466 of the principal Act, the following section shall be inserted, namely:—

2 of 1974.

“466A. The Code of Criminal Procedure, 1973, shall apply to,—

(a) an offence under sub-section (5) of section 313 or section 332 or sub-section (1) of section 333 or sub-section (1) of section 334 or section 343 or section 344 or section 345 or section 347;

(b) an offence under sub-section (1) of section 317 or sub-section (1) of section 320 or sub-section (1) of section 321 or sub-section (1) of section 325 or section 339 in relation to any street which is a public street,

Amend-
ment of
section
456.

Amend-
ment of
section
461.

Inser-
tion of
new
section
466A.

Certain
offences
to be
cogniza-
ble.

as if it were a cognizable offence—

(i) for the purposes of investigation of such offence; and

(ii) for the purposes of all matters other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator:

Provided that no offence of the contravention of any condition subject to which sanction was accorded for the erection of any building or the execution of any work shall be cognizable, if such contravention relates to any deviation from any plan of such erection or execution sanctioned by the Commissioner which is compoundable on payment of an amount under the bye-laws relating to buildings made under this Act.”.

Substitution of new section for section 467.

Prosecutions.

12. For section 467 of the principal Act, the following section shall be substituted, namely:—

“467. Save as otherwise provided in this Act, no court shall proceed to the trial of any offence,—

(a) under sub-section (5) of section 313 or section 332 or sub-section (1) of section 333 or sub-section (1) of section 334 or section 343 or section 344 or section 345 or section 347, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator;

(b) under sub-section (1) of section 317 or sub-section (1) of section 320 or sub-section (1) of section 321 or sub-section (1) of section 325 or section 339, if any such offence was committed in relation to any street which is a public street, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator;

(c) other than those specified in clauses (a) and (b), except on the complaint of, or upon information received from, any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity) or a person authorised by any of them by a general or special order in this behalf.”.

Amend-
ment of
Twelfth
Schedule.

13. In the Twelfth Schedule to the principal Act,—

(a) against section 313, sub-section (5), in the third column, for the letters and figures “Rs. 500”, the words “Rigorous imprisonment which may extend to three years” shall be substituted, and the existing entry in the fourth column shall be omitted;

- (b) against section 332, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted;
- (c) against section 333, sub-section (1), in the third column, for the letters and figures "Rs. 100", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted;
- (d) against section 334, sub-section (1), in the third column, for the letters and figures "Rs. 100", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted;
- (e) against section 343, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted;
- (f) against section 344, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted;
- (g) against section 345, in the third column, for the letters and figures "Rs. 500", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted;
- (h) against section 347, in the third column, for the letters and figures "Rs. 500", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted.

**THE ALUMINIUM CORPORATION OF INDIA LIMITED
(ACQUISITION AND TRANSFER OF ALUMINIUM
UNDERTAKING ACT, 1984)**

ARRANGEMENT OF SECTIONS.

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title.
2. Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF ALUMINIUM UNDERTAKING OF THE COMPANY

3. Transfer to, and vesting in, the Central Government of the Aluminium undertaking of the Company.
4. General effect of vesting.
5. Central Government or the Bharat Aluminium Company not to be liable for prior liabilities.
6. Vesting of the Aluminium undertaking in Bharat Aluminium Company.

CHAPTER III

PAYMENT OF AMOUNTS

7. Payment of amounts.
8. Payment of further amounts.

CHAPTER IV

MANAGEMENT, ETC., OF THE ALUMINIUM UNDERTAKING

9. Management, etc., of the Aluminium undertaking.
10. Power of Central Government to issue directions.
11. Duty of persons to account for assets, etc., in their possession.

CHAPTER V

PROVISIONS RELATING TO CERTAIN EMPLOYEES OF THE COMPANY

12. Continuance of employees.
13. Provident fund and other funds.

CHAPTER VI**COMMISSIONER OF PAYMENTS****SECTIONS**

14. Appointment of Commissioner of Payments.
15. Payment by the Central Government to the Commissioner.
16. Certain powers of the Central Government or Bharat Aluminium Company.
17. Claims to be made to the Commissioner.
18. Priority of claims.
19. Examination of claims.
20. Admission or rejection of claims.
21. Disbursement of money by the Commissioner to claimants.
22. Disbursement of amounts to the Company.
23. Undisbursed or unclaimed amount to be transferred to the general revenue account.

CHAPTER VII**MISCELLANEOUS**

24. Act to have overriding effect.
25. Contracts in relation to the Aluminium undertaking to cease to have effect unless ratified by the Central Government or Bharat Aluminium Company.
26. Penalties.
27. Offences by companies.
28. Protection of action taken in good faith.
29. Delegation of powers.
30. Power to make rules.
31. Power to remove difficulties.

THE SCHEDULE

THE ALUMINIUM CORPORATION OF INDIA LIMITED
(ACQUISITION AND TRANSFER OF ALUMINIUM UNDERTAKING) ACT, 1984

No. 43 OF 1984

[2nd June, 1984.]

An Act to provide for the acquisition and transfer of the right, title and interest of the Aluminium Corporation of India Limited in relation to its undertaking at Jaykay Nagar, near Asansol (West Bengal) for the purpose of ensuring the continuity of production of aluminium and aluminium fabricated products which are essential to the needs of the community and thereby to give effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

* WHEREAS the undertaking of the Aluminium Corporation of India Limited, a company within the meaning of the Companies Act, 1956 at Jaykay Nagar, near Asansol (West Bengal) was engaged in the production of aluminium and aluminium fabricated products falling under the First Schedule to the Industries (Development and Regulation) Act, 1951;

1 of 1956.

65 of 1951.

AND WHEREAS as a result of deterioration of operating efficiency, grave financial improprieties, failure to maintain harmonious industrial relations and other reasons, the Company had to resort to the closure of the said undertaking in 1973;

AND WHEREAS efforts were made from 1975 onwards by the Central Government and the Government of West Bengal to secure the revival of the said undertaking with a view to the rehabilitation of the workmen adversely affected by the closure of the undertaking and also for augmenting the supply of aluminium and aluminium fabricated products and the efforts did not succeed as the entire capital of the Company had been eroded by outstanding liabilities and the management was unwilling to invest any funds;

AND WHEREAS with a view to re-starting the said undertaking, the management of the said undertaking was taken over by the Central Government on the 1st day of May, 1978 under the provisions of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

AND WHEREAS owing to the condition of the plant and machinery and other equipment and the grave deterioration which had already taken place in the operating efficiency thereof, the undertaking has not been able, in spite of financial and other assistance provided by the Central Government and the Government of West Bengal, to become viable or generate the funds needed for the proper utilisation of its capacity;

AND WHEREAS further investment of substantial sums of money is needed for the rehabilitation and replacement of the capital equipment and in view of the serious adverse financial condition of the Company and the state of the undertaking, the Company is not in a position to secure the funds necessary for such investment;

AND WHEREAS it is necessary to make such investment for securing proper utilisation of available facilities for production of aluminium and aluminium fabricated products which are essential to the needs of the community, particularly in the industrial and power sectors;

AND WHEREAS such investment is also necessary for securing the continued employment of the workmen employed in the said undertaking;

AND WHEREAS it is necessary in the public interest to acquire the said undertaking to enable the Central Government to have such investment made and to ensure that the interests of the general public are served by the continuance of the said undertaking of the production of aluminium and aluminium fabricated products;

AND WHEREAS such acquisition is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution;

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

CHAPTER I

PRELIMINARY

1. This Act may be called the Aluminium Corporation of India Limited (Acquisition and Transfer of Aluminium Undertaking) Act, 1984.

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

(a) "Aluminium undertaking", in relation to the Company, means the undertaking of the Company located at Jaykay Nagar, near Asansol (West Bengal), being the industrial undertaking referred to in the order of the Government of India in the Ministry of Industry (Department of Industrial Development) No. S.O. 293(E)/18AA/IDRA/78, dated the 1st day of May, 1978;

Short title.

Definitions.

1 of 1956.

(b) "appointed day" means the date of commencement of this Act;

(c) "Bharat Aluminium Company" means the Bharat Aluminium Company Limited, a Government company within the meaning of the Companies Act, 1956, and having its registered office at New Delhi;

(d) "Commissioner" means the Commissioner of Payments appointed under section 14;

(e) "Company" means the Aluminium Corporation of India Limited, being a company within the meaning of the Companies Act, 1956, and having its registered office at 7, Council House Street, Calcutta;

1 of 1956.

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

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

(h) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Act.

(i) 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 ALUMINIUM UNDERTAKING OF THE COMPANY

Transfer to, and vesting in, the Central Government of the Aluminium undertaking of the Company.

General effect of vesting.

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

4. (1) The Aluminium undertaking of the Company shall be deemed to include all properties and assets (including lands, quarries, mines, buildings, offices, factories, workshops, stores, plants, machinery and equipment, installations, instruments, laboratories, office furniture, stationery and equipment, vehicles, staff quarters, workers' colonies together with amenities and installations pertaining thereto, cash balance, cash in hand, reserve funds, investments, books, book debts, rights, leaseholds, powers, authorities and privileges) pertaining to the undertaking and all other rights and interests in, or arising out of, such properties and assets as were immediately before the appointed day in the ownership, possession, power or control of the Company and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties and assets 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 them, and any attachment, injunction, decree or order of any court or other authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets 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 the amounts referred to in sections 7 and 8 but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to the Aluminium undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of the said undertaking, and, on and from the date of vesting of such undertaking under section 6, in the Bharat Aluminium Company, that company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to it and shall hold such licence or other instrument for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property or asset which has vested in the Central Government under section 3, 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 Aluminium undertaking 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 where the Aluminium undertaking is directed under section 6, to vest in the Bharat Aluminium Company, by or against that company.

5. (1) Every liability of the Company in relation to the Aluminium undertaking 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 where the Aluminium undertaking is directed under section 6, to vest in the Bharat Aluminium Company, against that company.

Central
Govern-
ment
or the
Bharat
Alumin-
ium
Company
not
to be
liable
for prior
liabilities.

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

(a) save as otherwise expressly provided in this Act, no liability of the Company in relation to the Aluminium undertaking in respect of any period prior to the appointed day, shall be enforceable against the Central Government or where the Aluminium undertaking is directed under section 6 to vest in the Bharat Aluminium Company, against that company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the Aluminium undertaking, 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 where the Aluminium undertaking is directed under section 6 to vest in the Bharat Aluminium Company, against that 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 where the Aluminium undertaking is directed under section 6 to vest in the Bharat Aluminium Company, against that company.

Vesting
of the
Alumi-
nium
under-
taking
in Bharat
Alumi-
nium
Company.

6. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government shall, as soon as may be, after the appointed day, direct, by notification, that the Aluminium undertaking and the right, title and interest of the Company in relation to that undertaking which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Bharat Aluminium Company either on the date of 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 the Aluminium undertaking vest in the Bharat Aluminium Company under sub-section (1), the Bharat Aluminium Company shall, on and from the date of such vesting, be deemed to have become the owner in relation to the Aluminium undertaking, and all the rights and liabilities of the Central Government in relation to the Aluminium undertaking shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Bharat Aluminium Company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment
of
amounts.

7. For the transfer to, and vesting in, the Central Government, under section 3, of the Aluminium undertaking and the right, title and interest of the Company in relation to that undertaking, 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 four crores and twenty-four lakhs.

S of 1951.

Payment
of fur-
ther
amounts.

8. (1) For the deprivation of the Company of the management of the Aluminium undertaking, there shall be given by the Central Government to the Company, in cash, an amount calculated at the rate of rupees two thousand five hundred per mensem for the period commencing on the date on which the management of the Aluminium undertaking was taken over in pursuance of the orders made by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951 and ending on the appointed day.

(2) The amount specified in section 7 and the amount calculated in accordance with the provisions of 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 amount 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 7.

(4) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to the Aluminium undertaking which has vested in the Central Government under section 3, shall be discharged from the amount referred to in section 7 and also from the amounts determined under sub-sections (1), (2) and (3) in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE ALUMINIUM UNDERTAKING

9. The general superintendence, direction, control and management of the affairs and business of the Aluminium undertaking shall, where a direction has been issued by the Central Government under section 6, vest in the Bharat Aluminium Company and thereupon the Bharat Aluminium Company shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to such undertaking.

Management,
etc.,
of the
Alumi-
nium
under-
taking.

10. The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Bharat Aluminium Company and the Bharat Aluminium Company 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 Aluminium undertaking shall be conducted by it or in relation to any other matter arising in the course of such management.

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

11. (1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to the Aluminium undertaking which has vested in the Central Government or the Bharat Aluminium Company under this Act shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Bharat Aluminium Company and shall deliver them up to the Central Government or the Bharat Aluminium Company or to such person or persons as the Central Government or the Bharat Aluminium Company may specify in this behalf.

Duty of
persons
to ac-
count for
assets,
etc., in
their
posse-
sion.

(2) The Central Government or the Bharat Aluminium Company may take or cause to be taken all necessary steps for securing possession of the Aluminium undertaking which has vested in the Central Government or the Bharat Aluminium Company under this Act.

(3) The 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 Aluminium undertaking which has vested in the Central Government under section 3, and for this purpose the Central Government or the Bharat Aluminium Company shall afford to the Company all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO CERTAIN EMPLOYEES OF THE COMPANY

Continuance of employees.

12. (1) Every person who has been, immediately before the appointed day, employed in the Aluminium undertaking shall become,—

(a) on and from the appointed day, an employee of the Central Government; and

(b) where the Aluminium undertaking is directed under section 6, to vest in the Bharat Aluminium Company, an employee of that company on and from the date of such vesting,

and shall hold office or service under the Central Government or the Bharat Aluminium 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 Bharat Aluminium 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 Bharat Aluminium Company, as the case may be.

(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 Aluminium undertaking to the Central Government or the Bharat Aluminium 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.

Provident fund and other funds.

13. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed by it, the monies relatable to the officers or other employees, whose services have become transferred, by or under this Act to the Central Government or the Bharat Aluminium Company, shall, out of the monies standing on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Central Government or the Bharat Aluminium Company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the Bharat Aluminium Company, as the case may be, shall be dealt with by that Government or that company in such manner as may be prescribed.

CHAPTER VI
COMMISSIONER OF PAYMENTS

14. (1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under section 7 and section 8, by notification, appoint a Commissioner of Payments.

Appoint-
ment of
Commis-
sioner of
Pay-
ments.

(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.

15. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company an amount equal to the amount specified in section 7 and the amounts payable to the Company under section 8.

Payment
by the
Central
Govern-
ment to
the Com-
missioner.

(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) Records shall be maintained by the Commissioner in respect of the Aluminium undertaking in relation to which payments have been made to him under this Act.

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

16. (1) The Central Government or the Bharat Aluminium 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 the Aluminium undertaking, realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain
powers
of the
Central
Govern-
ment or
Bharat
Alumi-
nium
Company.

(2) The Central Government or the Bharat Aluminium 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 pertaining to the Aluminium undertaking 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 Bharat Aluminium Company, as the case may be.

(3) Save as otherwise provided in this Act, the liabilities of the Company in relation to the Aluminium undertaking 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 Com-
missioner.

17. Every person having a claim against the Company in relation to the Aluminium undertaking 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.

18. 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 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 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.

Examina-
tion of
claims.

19. (1) On receipt of the claims made under section 17, 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.

Admis-
sion or
rejection
of
claims.

20. (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.

(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 having circulation in the major part of the country and in one issue of such daily newspaper in such 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.

¹ 1St March, 1985. vide notification No., SO 148 (E), dated 20-2-1985, Gazette of India, Extraordinary, 1985, Part II, Section 3 (ii).

(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 admit or reject, by order in writing, the claim in whole or in part.

5 of 1908.

(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 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:

(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.

45 of 1860.

2 of 1974.

(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.

(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 within the local limits of whose jurisdiction such registered office is situated, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

21. 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 amount is due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement of money by the Commissioner to claimants.

22. (1) If, out of the monies paid to him under section 15, 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 Bharat Aluminium

Disbursement of amounts to the company.

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 Bharat Aluminium Company to continue to possess such machinery or equipment or other property on the same terms and conditions under which it was possessed by the Company immediately before the appointed day.

Undis-
bursed or
unclaimed
amount
to be
trans-
ferred to
the genera-
l revenue
account.

23. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is wound up, shall be transferred by the Commissioner, before his office is finally wound up, 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, and the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

Act to
have
over-
riding
effect.

Contracts
in relation
to the Alu-
minium
under-
taking
to cease
to have
effect un-
less rati-
fied by
the Cen-
tral Gov-
ernment
or Bharat
Alumi-
nium
Company.

24. 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.

25. Every contract entered into by the Company in relation to the Aluminium undertaking 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 such day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the Bharat Aluminium Company and, in ratifying such contract, the Central Government or the Bharat Aluminium Company may make such alterations or modifications therein as it may think fit:

Provided that the Central Government or the Bharat Aluminium Company shall not omit to ratify a contract, and shall not make any alteration or modification in a contract,—

(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 Central Government or the Bharat Aluminium Company; and

(b) 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.

26. Any person who—

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

- (b) wrongfully obtains possession of, or retains, any property or assets forming part of the Aluminium undertaking; or
- (c) wilfully withholds or fails to furnish to the Central Government, or the Bharat Aluminium Company or to any person or body of persons specified by that Government or company, any document or inventory relating to that undertaking which may be in his possession, custody or control; or
- (d) fails to deliver to the Central Government, or the Bharat Aluminium Company or to any person or body of persons specified by that Government or company, any property, assets, books of account, registers or other documents in his possession, custody or control, relating to the Aluminium undertaking; or
- (e) wrongfully removes or destroys any property or asset forming part of the Aluminium undertaking 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.

27. (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 com-
panies.

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.

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

Protec-
tion of
action
taken in
good
faith.

(2) No suit or other legal proceeding shall lie against the Central Government or the Bharat Aluminium Company or any officer or other employee of that Government or that company or any person authorised by that Government or 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.

**Delega-
tion of
powers.**

29. (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 this section, section 30 or section 31 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.**

30. (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 (3) of section 4;

(b) the manner in which the moneys in any provident fund or other fund referred to in section 13 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.**

31. 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.

THE SCHEDULE

[See sections 18, 19(1), 20(1) and 22(1)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE
ALUMINIUM UNDERTAKING

Category I—

Employees' dues on account of unpaid salaries and wages, contributions to be made by the Company and the employees to the provident fund and Employees' State Insurance, premium relating to Life Insurance Corporation of India and any other amounts due to employees, in respect of any period whether before or after the management of the Aluminium undertaking had been taken over by the Central Government.

Category II—

Loans advanced by banks and financial institutions during the post-take over management period.

Category III—

Loans advanced by the Central Government and State Government during the post-take over management period.

Category IV—

Any credit availed of for the purpose of carrying on any trading or manufacturing operations during the post-take over management period.

Category V—

Any other loans obtained during the post-take over management period.

Category VI—

Secured loans obtained during the pre-take over management period.

Category VII—

Unsecured loans or other dues to creditors in relation to any transaction which took place during the pre-take over management period.

Category VIII—

Revenue, taxes, cesses, rates or other dues for the Central Government, State Government and local authorities or State Electricity Board in respect of any period whether before or after the management of the Aluminium undertaking had been taken over by the Central Government.

Other unliquidated debts and dues of the aluminium undertaking arising out of any transaction or event occurring before or after the date of acquisition and transfer of the aluminium undertaking.

THE BANKING SERVICE COMMISSION ACT, 1984

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

BANKING SERVICE COMMISSION

3. Establishment of the Commission.
4. Appointment and terms of office of Chairman and members.
5. Prohibition as to holding offices by Chairman or member on ceasing to be such Chairman or member.
6. Removal and suspension of Chairman or the members from office in certain circumstances.
7. Power of Commission to constitute committees.
8. Secretary and other staff of the Commission.
9. Authentication of orders and other instruments of the Commission.

CHAPTER III

FUNCTIONS OF THE COMMISSION

10. Duty of Commission to hold competitive examinations or make selections for appointment to posts in public sector banks.
11. Calling for applications and conduct of examinations or selections.
12. Duty of public sector banks to communicate to the Commission of number of vacancies.
13. Cases in which Commission may not be consulted.
14. Duty of Commission to make recommendation.
15. Communicated vacancies to be filled only on the recommendation of the Commission.
16. Power of Central Government to entrust other advisory functions to the Commission.
17. Reservation of posts for candidates belonging to Scheduled Castes and Scheduled Tribes and other categories of persons.
18. Fund of the Commission.
19. Payment to the Commission.
20. Budget of the Commission.
21. Accounts and audit.
22. Annual report.

CHAPTER IV**MISCELLANEOUS****SECTIONS**

23. Obligation as to secrecy.
24. Chairman, members, etc., to be public servants.
25. Certain defects not to invalidate acts or proceedings.
26. Protection of action taken in good faith.
27. Commission not liable to be taxed.
28. Delegation of powers.
29. Amendment of Act 14 of 1947.
30. Returns and information.
31. Power to make rules.
32. Power to make regulations.
33. Rules and regulations to be laid before Parliament.
34. Power to remove difficulty.

THE BANKING SERVICE COMMISSION ACT, 1984

No. 44 OF 1984

[2nd June, 1984.]

An Act to provide for the establishment of a Commission for the recruitment and selection of officers for appointment to services and posts in public sector banks and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

**Short title
and com-
mencement.**

1. (1) This Act may be called the Banking Service Commission Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

Definitions.

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

(a) "banking company" has the meaning assigned to it in the Banking Regulation Act, 1949;

(b) "Chairman" means the Chairman of the Commission;

(c) "Commission" means the Banking Service Commission, established under sub-section (1) of section 3;

(d) "grade", in relation to a public sector bank, means a grade for officers as specified in the rules or, as the case may be, the regulations of the bank;

(e) "junior management grade", in relation to a public sector bank, means the lowest grade of officers in that bank;

(f) "member" means a member of the Commission but does not include the Chairman;

10 of 1949

- (g) "notification" means a notification published in the Official Gazette;
- (h) "officer" means an officer of any grade;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "public sector bank" means—
- (i) a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
 - (ii) a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;
 - (iii) the State Bank of India constituted under the State Bank of India Act, 1955;
 - (iv) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;
- (k) "regulation" means a regulation made under this Act;
- (l) "Reserve Bank" means the Reserve Bank of India, constituted under the Reserve Bank of India Act, 1934;
- (m) "Secretary" means the Secretary of the Commission;
- (n) "vacancy" includes a newly created post which has not been filled in.

CHAPTER II

BANKING SERVICE COMMISSION

3. (1) With effect from such date as the Central Government may, by notification specify in this behalf, there shall be established for the purposes of this Act a Commission, to be called the Banking Service Commission.

Establishment of the Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and may by the said name sue and be sued.

(3) The Head Office of the Commission shall be at Delhi or at such other place as the Central Government may, by notification, specify.

4. (1) The Central Government shall, by notification, appoint a person to be the Chairman of the Commission and not more than eight other persons to be members of the Commission.

Appointment and terms of office of Chairman and members.

Provided that at least one member shall be from amongst persons belonging to the Scheduled Castes or the Scheduled Tribes.

(2) The Chairman and members shall be persons who, in the opinion of the Central Government, are men of ability, integrity and standing and have special knowledge of, or practical experience in, financial, economic or business administration or in the administration of Government or in any other matter which would render such persons suitable for appointment as Chairman or member:

Provided that as nearly as may be one-half of the members shall be persons who, on the date of their respective appointments, have had such experience for not less than ten years in a banking company or in any public sector bank or Reserve Bank or in an institution wholly or substantially owned by the Reserve Bank or a public financial institution.

Explanation I.—For the purposes of this section and of section 5,—

(a) each of the following institutions shall be deemed to be a public financial institution, namely:—

(i) the Industrial Credit and Investment Corporation of India Limited, a company formed and registered under the Companies Act, 1956;

(ii) the Industrial Reconstruction Corporation of India Limited, a company formed and registered under the Companies Act, 1956;

(iii) the Industrial Finance Corporation of India, established under section 3 of the Industrial Finance Corporation Act, 1948;

(iv) the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964;

(v) the Export-Import Bank of India, established under section 3 of the Export-Import Bank of India Act, 1981;

(vi) the National Bank for Agriculture and Rural Development, established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

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

(viii) the Unit Trust of India, established under section 3 of the Unit Trust of India Act, 1963;

(ix) any other financial institution which is declared by the Central Government, by notification, to be a public financial institution;

(b) an institution shall be deemed to be substantially owned by the Reserve Bank if, in the capital of such institution, that Bank has not less than forty per cent. share.

Explanation II.—For the purposes of this section and section 17, the expressions "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in article 366 of the Constitution.

(3) The Chairman or any member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier:

Provided that—

(a) the Chairman or any member may, by writing under his hand addressed to the Central Government, resign his office;

(b) the Chairman or any member may be removed from his office in the manner provided by this Act.

(4) The other terms and conditions of service of the Chairman and members shall be such as may be prescribed.

(5) If the office of the Chairman becomes vacant or if the Chairman is unable to discharge his functions owing to absence, illness or any other cause, such member of the Commission as the Central Government may, by order, specify, shall discharge the functions of the Chairman up to the date on which a new Chairman is appointed or, as the case may be, the Chairman resumes his duties.

5. A person who holds office as Chairman or member shall, on his ceasing to hold such office by reason of the expiration of his term or otherwise, be ineligible for re-appointment in the Commission or for employment under the Government of India or of any State or in the Reserve Bank or in any institution wholly or substantially owned by the Reserve Bank or in any public sector bank or any banking company or in a public financial institution:

Provided that a member to whom this section applies, shall be eligible for appointment as Chairman, but shall not be eligible for any other employment.

6. (1) The Central Government may remove from office the Chairman or any member, who—

(a) is adjudged an insolvent, or

(b) is convicted of an offence involving moral turpitude, or

(c) is, in the opinion of the Central Government, unfit to continue in office by reason of infirmity of mind or body, or

(d) engages, during the term of office, in any paid employment outside the duties of his office, or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functioning as the Chairman or a member, or

(f) has so abused his position as to render his continuance in office undesirable.

(2) Notwithstanding anything contained in sub-section (1), the Chairman or any member shall not be removed from office on the ground specified in clause (d) or clause (e) or clause (f) of that sub-section unless the matter has been referred to an Inquiry Officer

Prohibition as to holding offices by Chairman or member on ceasing to be such Chairman or member.

Removal and suspension of Chairman or the members from office in certain circumstances.

appointed under sub-section (3) and such officer has, after an inquiry, held in accordance with such procedure as the Central Government may specify in this behalf, reported that the member ought, on such grounds, to be removed.

(3) For the purpose of holding an inquiry under sub-section (2), the Central Government may, by order, appoint, as an Inquiry Officer, a person who is holding or has held the office of a Judge of the Supreme Court or of any High Court.

(4) The Central Government may suspend from office the Chairman or any member in respect of whom a reference has been made to an Inquiry Officer under sub-section (2), pending such inquiry.

(5) The terms and conditions of service of any Inquiry Officer appointed under sub-section (3) shall be such as the Central Government may, by order, specify.

Power of
Commission to
constitute
committees.

7. (1) The Commission may, in such manner and subject to such conditions and restrictions as may be prescribed, constitute one or more committees consisting wholly of its members or partly of its members and partly of other persons and delegate to any committee so constituted such of the functions and powers of the Commission as may be specified in the rules made by the Central Government:

Provided that the Commission may constitute any committee either with, or without, the Chairman as one of the members of such committee.

(2) The sitting fee and travelling allowance payable to persons, other than the Chairman and members for attending any meeting of the committee, shall be such as may be prescribed.

Secretary
and other
staff of
the Com-
mission.

8. (1) The Commission may, with the previous sanction of the Central Government, appoint a Secretary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of the Secretary shall be such as may be prescribed.

(3) Subject to such regulations as may be made in this behalf, the Commission may appoint such other employees as it may think necessary for the efficient discharge of its functions under this Act on such terms and conditions as the Commission may, having regard to the terms and conditions of service of the comparable posts in the Central Government, determine with the previous sanction of the Central Government.

Authenti-
cation of
orders
and other
instru-
ments of
the Com-
mission.

9. (1) All orders and instruments issued by the Commission shall be authenticated by the signature of the Secretary or any other employee of the Commission authorised by the Chairman in this behalf.

(2) Orders or instruments issued by the Commission and authenticated in accordance with the provisions of sub-section (1) shall be evidence of the matters recorded therein and shall be admissible in evidence notwithstanding anything contained in the Indian Evidence Act, 1872, or in any other law for the time being in force.

CHAPTER III

FUNCTIONS OF THE COMMISSION

10. It shall be the duty of the Commission to conduct examinations or to make selections or both for appointments in public sector banks for filling vacancies in—

- (a) posts of officers required to be filled by direct recruitment;
- (b) posts of officers of and above the rank of Assistant General Manager or of its equivalent rank required to be filled by promotion; and
- (c) such other posts as the Central Government may, by notification, specify.

11. (1) The Commission shall call for applications from such category of persons and in such manner as may be specified in the regulations and conduct examinations or make selections or both having regard to the requirement of section 17 and the vacancies communicated to it under section 12:

Provided that such examinations or selections or both shall be made in accordance with the principles specified in the regulations.

(2) The fee payable on an application under sub-section (1) shall be such as may be specified by regulations and such fee shall not exceed eighty rupees.

12. (1) It shall be the duty of every public sector bank to communicate to the Commission—

- (a) twenty-five per cent. of the estimated total number of vacancies in the junior management grade in the general category,
- (b) all other vacancies in posts of officers required to be filled by direct recruitment,
- (c) vacancies in posts of officers of and above the rank of Assistant General Manager or of its equivalent rank required to be filled by promotion,

and such communication shall be sent in respect of all such vacancies which are likely to occur during the unexpired portion of the year in which this section comes into force, as soon as may be after such commencement and in respect of all such vacancies as are likely to occur during each subsequent year, as soon as may be after the commencement of such year:

Provided that in relation to junior management grade in the general category, the Central Government may, if it is of opinion that it is necessary so to do in the interests of the public sector banks, by notification, raise the percentage of vacancies to be communicated to the Commission to thirty-three and one-third per cent.

(2) Communications of vacancies referred to in sub-section (1) shall be made in such form and in such manner as may be specified in the regulations.

Duty of Commission to hold competitive examinations or make selections for appointment to posts in public sector banks.

Calling for applications and conduct of examinations or selections.

Duty of public sector banks to communicate to the Commission of number of vacancies.

Explanation.—For the purposes of this section, “junior management grade in the general category”, in relation to a public sector bank, means all categories of posts in the junior management grade as specified in the rules or, as the case may be, the regulations of the bank other than such categories of posts as the Central Government may, having regard to the nature of such posts, declare, by notification, to be posts of a technical category.

Cases in which Commission may not be consulted.

13. It shall not be necessary to consult the Commission in regard to the selection of a person—

(a) for appointment to a post in the junior management grade on compassionate grounds or other special grounds (in pursuance of the scheme framed by a public sector bank in consultation with the Commission and with the previous sanction of the Central Government);

(b) if the person appointed is not likely to hold the post for a period of more than one year, and it is necessary in the interests of the public sector bank to make the appointment immediately and reference to the Commission will cause undue delay:

Provided that—

(i) such appointment is made in the manner specified by the Commission by regulations and is reported to the Commission as soon as it is made;

(ii) if the appointment continues beyond a period of six months, a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission; and

(iii) if such estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment, the Commission shall immediately be consulted in regard to the filling of the post.

Duty of Commission to make recommendation.

14. It shall be the duty of the Commission to make, on the basis of the results of examinations conducted or on the basis of the selection made by it or, as the case may be, on the basis of both, recommendations to each public sector bank in such manner as may be specified by regulations for appointments to fill the vacancies communicated to it by such bank under section 12.

Communicated vacancies to be filled only on the recommendation of the Commission.

15. (1) Notwithstanding anything to the contrary contained in any award, settlement or agreement, or in any judgment, decree or order of any court or tribunal or other authority or in any other law in force for the time being, appointments to all the vacancies required to be communicated to the Commission under section 12 shall, on or from such date as the Commission may notify in respect of each public sector bank, be made by such public sector bank only on the recommendation of the Commission, except where consultation with the Commission is not necessary under this Act.

(2) If, in any year, the Commission is unable to make recommendation for appointment to all the vacancies communicated to it by a public sector bank under section 12, or if the public sector bank is unable, in any year,

to make appointments on the basis of recommendations made by the Commission, the vacancies may be carried forward to the subsequent year, to be filled in the said manner:

Provided that the public sector bank may, in consultation with the Commission, fill such vacancies temporarily in such manner and for such period as the Commission may, by regulations, specify.

16. The Commission shall discharge such functions of an advisory nature as the Central Government may, by notification, entrust to it.

Power of
Central
Govern-
ment to
entrust
other ad-
visory
func-
tions
to the
Commis-
sion.

17. The Central Government may, by order, direct that in relation to every public sector bank, reservations in favour of the Scheduled Castes, Scheduled Tribes and other categories of persons shall be made in such manner and to such extent as it may specify:

Provided that in giving any direction as aforesaid, the Central Government shall have due regard to the reservation of posts made for the Scheduled Castes, Scheduled Tribes and other categories of persons in relation to recruitment to the services of the Government and to the general need, and special requirements, of such public sector bank.

Reserva-
tion of
posts for
candidates
belonging
to Sche-
duled
Castes
and Sche-
duled
Tribes
and other
categories
of
persons.

18. (1) The Commission shall have its own Fund and all the receipts of the Commission shall be credited to the Fund and all payments by the Commission shall be made therefrom.

Fund of
the Com-
mission.

(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as the Commission may, subject to any general or special order made by the Central Government in this behalf, decide.

(3) The Commission 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 Commission.

19. (1) The Central Government may, subject to any rules that may be made in this behalf, direct every public sector bank to pay to the Commission such fee as it may determine and the aggregate amount of the fee so determined shall not exceed the expenses incurred by the Commission.

Payment
to the
Commis-
sion.

(2) The aggregate amount of fee payable under sub-section (1) shall be apportioned by the Central Government between different public sector banks and in making such apportionment in relation to a public sector bank, the Central Government shall have due regard to the demand and time liabilities of that public sector bank.

(3) For the purpose of meeting the expenditure of the Commission, the Central Government may, by general or special order, direct the

payment by every public sector bank of an advance of such amount as it may specify and the advance so made shall be appropriated or adjusted in such manner as may be prescribed.

Explanation.—The expressions “demand liabilities” and “time liabilities” shall have the meanings respectively assigned to them in the Banking Regulation Act, 1949.

Budget of
the Com-
mission.

20. The Commission shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the year next ensuing showing the estimated receipts and expenditure, and submit the same to the Central Government for approval.

10 of 1949.

Accounts
and audit.

21. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts for such period, in such form, at such time and in such manner as may be prescribed.

1 of 1956.

(2) The accounts of the Commission shall be audited by a person who is qualified to act as an auditor of a company under section 226 of the Companies Act, 1956, and the auditor shall receive such remuneration as the Commission may, in consultation with the Central Government, fix.

(3) In conducting the audit, the auditor shall have the same rights and duties as are possessed by an auditor of a company as if the Commission were a company within the meaning of the Companies Act, 1956.

1 of 1956.

Annual
report.

22. The Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER IV

MISCELLANEOUS

Obliga-
tion as to
secrecy.

23. The Chairman and members and the Secretary or other employees of the Commission, and every member of any committee constituted under sub-section (1) of section 7, shall maintain strictest secrecy regarding the affairs of the Commission and shall not divulge, directly or indirectly, any information of a confidential nature to a member of the public unless compelled to do so by any judicial or other authority or unless instructed to do so by a superior officer in the discharge of his duties.

Chair-
man,
members,
etc., to be
public
servants.

24. The Chairman and members and the Secretary or other employees of the Commission, and every member of any committee constituted under sub-section (1) of section 7 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860

Certain
defects
not to in-
validate
acts or
proceed-
ings.

25. (1) All acts done by the Chairman and members and the members of any committee constituted under sub-section (1) of section 7, acting in good faith, shall, notwithstanding any defect in their appointment or procedure, be valid.

(2) No act or proceeding of the Commission or of any committee thereof shall be invalid merely on the ground of the existence of any vacancy therein or defect in the constitution of the Commission or the committee, as the case may be.

26. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Commission or any committee constituted under sub-section (1) of section 7 or any member of the Commission or of such committee or the Chairman or Secretary or other employee of the Commission for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

43 of 1961.

27. Notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to income-tax, surtax or any other tax on income, profits or gains, the Commission shall not be liable to pay any tax or surtax in respect of—

(a) any income, profits or gains accruing or arising out of the Fund of the Commission or any amount received in that Fund; and

(b) any income, profits or gains derived, or any amount received, by the Commission.

28. The Commission may, by general or special order, delegate to the Chairman, any member, Secretary or any employee of the Commission, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

29. For the purposes of the Industrial Disputes Act, 1947, the Central Government shall be deemed to be the appropriate Government in relation to an industrial dispute concerning the Commission and the definition of "appropriate Government" in that Act shall have effect accordingly.

30. (1) The Commission shall furnish to the Central Government such returns or other information with respect to its properties or activities as the Central Government may, from time to time, require.

(2) The Commission may, for the purpose of enabling it to discharge its functions under this Act, call upon any public sector bank to give such statements or furnish such particulars as the Commission may deem fit and every such bank shall comply with the same.

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 power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of service of the Chairman and members;

(b) the sitting fee and travelling allowance payable to persons, other than the Chairman and members, for attending any meeting of the committee, under sub-section (2) of section 7;

(c) the terms and conditions of service of the Secretary under sub-section (2) of section 8;

Protec-tion of action taken in good faith.

Commis-sion not liable to be taxed.

Delega-tion of powers.

Amend-ment of Act 14 of 1947.

Returns and infor-mation.

Power to make rules.

(d) the category of persons for whom any vacancy or percentage of vacancies in a public sector bank may be reserved by the Central Government;

(e) the procedure for determination of the fee to be paid by every public sector bank to the Commission under section 19;

(f) the form in which and the time within which the Commission shall prepare and submit its budget to the Central Government under section 20;

(g) the period for which, the form and manner in which and the time within which the Commission shall prepare its annual statement of accounts under sub-section (1) of section 21;

(h) the form and manner in which and the date by which the Commission shall prepare an annual report giving a full account of its activities during the previous year and submitting the same to the Central Government under section 22;

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

Power to make regulations.

32. (1) The Commission may, with the previous approval of the Central Government, by notification, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the matters referred to in sub-section (3) of section 8;

(b) the manner in which, and the category of persons from whom, applications may be called for appearing at examinations, selections or tests held by the Commission under sub-section (1) of section 11;

(c) the principles in accordance with which candidates shall be selected for different posts under the proviso to sub-section (1) of section 11;

(d) the fee payable by candidates intending to appear at examinations, selections or tests conducted by the Commission under sub-section (2) of section 11;

(e) the form and manner in which communication of vacancies under sub-section (2) of section 12 shall be made;

(f) the manner in which appointments may be made to fill any vacancy without consulting the Commission;

(g) the manner in which and period for which appointments may be made to fill vacancies in relation to which the Commission is unable to make a recommendation;

(h) the number of places and time at which the Commission shall conduct examinations or tests for recruitment to different posts;

(i) generally for the efficient conduct of the affairs of the Commission.

33. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive 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, as the case may be, 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.

Rules and regulations to be laid before Parliament.

34. 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, for the purpose of removing the difficulty:

Power to remove difficulty.

Provided that no such order shall be made after the expiration of three years from the date on which this Act receives the assent of the President.

**THE EMPLOYEES' STATE INSURANCE (AMENDMENT)
ACT, 1984**

No. 45 OF 1984

[6th August, 1984.]

An Act further to amend the Employees' State Insurance Act, 1948.

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

Short
title and
commen-
cement.

1. (1) This Act may be called the Employees' State Insurance (Amendment) Act, 1984.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States or for different parts thereof.

Amend-
ment of
section 2

2. In the Employees' State Insurance Act, 1948 (hereinafter referred to as the principal Act), in section 2,—

(a) in clause (2),—

(i) for the words "being not less than twenty-five but not exceeding twenty-seven consecutive weeks or", the words "being not exceeding" shall be substituted;

(ii) in the proviso, the words "or shorter" shall be omitted;

(b) in clause (5),—

(i) for the words "being not less than twenty-five but not exceeding twenty-seven consecutive weeks or", the words "being not exceeding" shall be substituted;

(ii) in the proviso, the words "or shorter" shall be omitted;

(c) in clause (9), in sub-clause (b), for the words "one thousand rupees" at both the places wherever they occur, the words "one thousand and six hundred rupees" shall be substituted;

(d) for clause (23), the following clause shall be substituted, namely:—

'(23) "wage period" in relation to an employee means the period in respect of which wages are ordinarily payable to him whether in terms of the contract of employment, express or implied or otherwise;'

¹ 27th January 1985, vide Notification No. S.O. 215 dated 5-1-1985 Gazette of India, 1985, Part II, Section 3 (ii).

3. In section 17 of the principal Act,—

- (a) in sub-section (1), for the words "one thousand and two hundred rupees", the words "two thousand and two hundred fifty rupees" shall be substituted;
- (b) in sub-sections (3) and (4), for the words and figures "Class I or Class II", the words and letters "Group A and Group B" shall be substituted.

4. In section 39 of the principal Act,—

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

"(3) The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under this Act.";

- (b) in sub-section (4), for the word "week" wherever it occurs, the words "wage period" shall be substituted.

5. In section 42 of the principal Act,—

- (a) in sub-section (1), for the words "are below one rupee and fifty paise", the words "during a wage period are below six rupees" shall be substituted;

- (b) in sub-section (2), for the word "week", the words "wage period" shall be substituted;

- (c) sub-section (3) shall be omitted.

6. For section 47 of the principal Act, the following section shall be substituted, namely:—

"47. A person shall be qualified to claim sickness benefit for sickness occurring during any benefit period if the contributions in respect of him were payable for not less than half the number of days of the corresponding contribution period."

7. In section 50 of the principal Act, for sub-section (1) and the proviso thereto, the following sub-section shall be substituted, namely:—

"(1) An insured woman shall be qualified to claim maternity benefit for a confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable for not less than half the number of days of corresponding contribution period."

8. In section 56 of the principal Act, in sub-section (3), for the word "week", the word "period" shall be substituted.

9. In section 78 of the principal Act, in sub-section (1), 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.

10. In section 95 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any

Amend-
ment of
section 17.Amend-
ment of
section
39.Amend-
ment of
section 42.Substitu-
tion of
new section
for sec-
tion 47.When
person
eligible for
sickness
benefit.Amend-
ment of
section 50.Amend-
ment of
section 56.Amend-
ment of
section 78.Amend-
ment of
section 95.

of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interest of any person other than the Corporation to whom such rule may be applicable.”.

Amend-
ment of
section 96.

11. In section 96 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.”.

Amend-
ment of
section 97.

12. In section 97 of the principal Act,—

(a) in sub-section (1), after the words “The Corporation may,”, the words “with the prior approval of the Central Government and” shall be inserted;

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

“(4) Every regulation shall, as soon as may be, after it is made by the Corporation, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

Amend-
ment of
the First
Schedule.

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

(a) for paragraph 1, the following paragraph shall be substituted, namely:—

“1. The amount of contribution for a wage period shall be, in respect of—

(a) employer's contribution, a sum (rounded to the next higher multiple of five paise) equal to five per cent. of the wages payable to an employee;

(b) employee's contribution, a sum (rounded to next higher multiple of five paise) equal to two and one-fourth per cent. of the wages payable to an employee.”;

(b) in paragraph 2,—

(i) in the opening portion, after the words “daily wages”, the words “during a wage period for the purposes of section 42 and sub-paragraph (b) of paragraph 6 of this Schedule” shall be inserted;

(ii) in sub-paragraph (b), the word “first” shall be omitted;

(iii) Explanation II shall be omitted;

(c) after paragraph 2, the following paragraph shall be inserted, namely:—

"2A. The average daily wages during a contribution period in respect of an employee for the purposes of paragraphs 4, 5 and sub-paragraph (a) of paragraph 6 of this Schedule shall be the sum equal to one hundred and fifteen per cent. of the aggregate amount of wages payable to him during that period divided by the number of days (including paid holidays and leave days) for which such wages were payable.";

(d) for paragraph 3 and the Table thereunder, the following paragraph and the Table shall be substituted, namely:—

3. Daily rate of benefit (hereinafter referred to as the "standard benefit rate") in respect of group of employees specified in the first column of the Table below shall be the amount respectively specified in the corresponding entry in the second column thereof.

TABLE

Group of employees whose average daily wages are	Corresponding daily standard benefit rate
I	Rs. P.
1. Below Rs. 6	2·50
2. Rs. 6 and above but below Rs. 8	3·50
3. Rs. 8 and above but below Rs. 12	5·00
4. Rs. 12 and above but below Rs. 16	7·00
5. Rs. 16 and above but below Rs. 24	10·00
6. Rs. 24 and above but below Rs. 36	15·00
7. Rs. 36 and above	20·00

14. For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE THIRD SCHEDULE

(See section 52A)

LIST OF OCCUPATIONAL DISEASES

Substitution
of
the
Third
Schedule.

Sl. No.	Occupational disease	Employment
I	2	3
PART A		
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) All work involving exposure to health or laboratory work; (b) All work involving exposure to veterinary work;

Sl. No.	Occupational disease	Employment
1	2	3
		(c) Work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses;
		(d) Other work carrying a particular risk of contamination.
21.	Diseases caused by work in compressed air.]	All work involving exposure to the risk concerned.
31.	Diseases caused by lead or its toxic compounds.	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes.	All work involving exposure to the risk concerned.
5.	Poisoning by organophosphorus compounds.	All work involving exposure to the risk concerned.
PART B		
1.	Diseases caused by phosphorus or its toxic compounds.	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds.	All work involving exposure to the risk concerned.
3.	Diseases caused by benzene or its toxic homologues.	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds.	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations.	All work involving exposure to the action of radioactive substances or ionising radiations.
8.	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	All work involving exposure to the risk concerned.
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by the carbon disulphide.	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations.	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds.	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items.	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise.	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.	All work involving exposure to the risk concerned.

Sl. No.	Occupational disease	Employment
1	2	3
16.	Diseases caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds.	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process.	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds.	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerine or other nitroacid esters.	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide.	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.	All work involving exposure to the risk concerned.

PART C

1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis, asbestos) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2.	Bagassosis.	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssinosis).	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveitis caused by the inhalation of organic dusts.	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals.	All work involving exposure to the risk concerned."
15.	The Employees' State Insurance Corporation (General Provident Fund) Rules, 1973 shall be and shall be deemed always to have been as valid and effective as if the provisions of section 95 of the principal Act, as amended by this Act, were in force at the time when those rules were made.	

THE PUNJAB APPROPRIATION (No. 2) ACT, 1984

No. 46 OF 1984

[10th August, 1984.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1984-85.

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

Short title.

1. This Act may be called the Punjab Appropriation (No. 2) Act, 1984.

Issue of
Rs. 2742,97,
93,000
out of the
Consolidated Fund
of the
State of
Punjab
for the
financial
year
1984-85.

Appropriation.

2. From and out of the Consolidated Fund of the State of Punjab 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 Punjab Appropriation (Vote on Account) Act, 1984] to the sum of two thousand seven hundred forty-two crores, ninety-seven lakhs and ninety-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services specified in column 2 of the Schedule.

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

14 of 1984.

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote/ Ap- pro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	State Legislature . . Revenue	1,10,85,000	1,07,000	1,11,92,000
	Staff, Household and Allowances of the Governor . . Revenue	..	20,67,000	20,67,000
2	Council of Ministers . . Revenue	87,65,000	..	87,65,000
3	Administration of Justice . . Revenue	4,50,37,000	93,00,000	5,43,37,000
4	Elections . . Revenue	1,32,39,000	..	1,32,39,000
5	Revenue . . Revenue	10,87,08,000	40,000	10,87,48,000
6	Excise and Taxation . . Revenue	5,75,40,000	64,000	5,76,04,000
7	Finance . . Revenue	45,63,52,000	63,000	45,64,15,000
8	Public Service Commission . . Revenue	18,65,000	13,41,000	32,06,000
9	Civil Secretariat . . Revenue	4,81,91,000	20,000	4,82,11,000
10	District Administration . . Revenue	6,65,76,000	81,000	6,66,57,000
11	Police . . . Revenue	49,86,93,000	2,83,000	49,89,76,000
12	Jails . . . Revenue	3,95,25,000	..	3,95,25,000
13	Stationery and Printing . . Revenue	4,39,53,000	6,45,000	4,45,98,000
	Capital	18,40,000	..	18,40,000
14	Miscellaneous Services . . Revenue	5,05,73,000	..	5,05,73,000
15	Rehabilitation, Relief and Resettlement . . Revenue	61,19,000	..	61,19,000
16	Education . . . Revenue	182,88,23,000	2,64,43,000	185,52,66,000
17	Technical Education, Science and Technology . . Revenue	2,02,63,000	..	2,02,63,000
18	Medical and Public Health . . . Revenue	10,50,000	..	10,50,000
	Capital	71,46,46,000	1,00,000	71,47,46,000
	Capital	1,00,00,000	..	1,00,00,000
19	Housing and Urban Development . . Revenue	2,46,76,000	5,000	2,46,81,000
	Capital	7,63,93,000	..	7,63,93,000

1 No. of Vote Ap- prop- riation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
20	Information and Publicity . . . Revenue	1,82,00,000	..	1,82,00,000
21	Tourism and Cultural Affairs . . . Revenue	58,13,000	..	58,13,000
	Capital	25,00,000	..	25,00,000
22	Labour, Employment and Industrial Training . . . Revenue	8,53,86,000	10,000	8,53,96,000
	Capital	16,83,000	..	16,83,000
23	Social Security and Welfare . . . Revenue	26,37,28,000	56,000	26,37,84,000
	Capital	1,64,00,000	..	1,64,00,000
24	Planning Statistics . . . Revenue	1,41,38,000	1,000	1,41,39,000
25	Co-operation . . . Revenue	6,55,72,000	30,000	6,56,02,000
	Capital	9,29,66,000	..	9,29,66,000
26	Agriculture . . . Revenue	28,87,32,000	47,000	28,87,79,000
	Capital	3,08,00,000	..	3,08,00,000
27	Soil and Water Conservation . . . Revenue	3,91,50,000	5,000	3,91,55,000
28	Food . . . Revenue	1,47,12,000	..	1,47,12,000
	Capital	436,14,20,000	1,80,000	436,16,00,000
29	Animal Husbandry . . . Revenue	12,51,24,000	50,000	12,51,74,000
30	Dairy Development . . . Revenue	59,09,000	..	59,09,000
31	Fisheries . . . Revenue	92,82,000	31,000	93,13,000
32	Forests . . . Revenue	11,02,96,000	2,000	11,02,98,000
33	Community Development . . . Revenue	43,59,77,000	4,000	43,59,81,000
34	Industries . . . Revenue	11,01,20,000	1,05,000	11,02,25,000
	Capital	7,62,00,000	..	7,62,00,000
35	Civil Aviation . . . Revenue	44,69,000	..	44,69,000
	Capital	8,00,000	..	8,00,000
36	Roads and Bridges . . . Revenue	23,13,25,000	3,15,000	23,16,40,000
	Capital	22,30,00,000	..	22,30,00,000
37	Road Transport . . . Revenue	66,18,73,000	7,50,000	66,26,23,000
	Capital	9,00,00,000	..	9,00,00,000
38	Multi-purpose River Projects . . . Revenue	11,84,70,000	..	11,84,70,000
	Capital	31,66,16,000	..	31,66,16,000

1 No. of Vote/ Ap- prop- riation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
39	Irrigation, Drainage and Flood Control . . . Revenue	60,59,66,000	..	60,59,66,000
	Capital	42,69,51,000	..	42,69,51,000
40	Buildings . . . Revenue	51,46,62,000	9,00,000	51,55,62,000
	Capital	13,85,96,000	..	13,85,96,000
41	Public Debt . . . Capital	..	1022,38,21,000	1022,38,21,000
	Interest Payments and Servicing of Debt . . . Revenue	..	91,88,46,000	91,88,46,000
41	Loans and Advances by the State Government . . . Capital	260,33,33,000	..	260,33,33,000
	TOTAL . . .	1624,40,81,000	1118,57,12,000	2742,97,93,000

THE PONDICHERRY APPROPRIATION (No. 2) ACT, 1984.

No. 47 of 1984

[10th August, 1984.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1984-85.

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

Short title.

Issue of
R. 77,11,
83,000 out
of the
Consoli-
dated
Fund
of the
Union
territory
of Pundi-
cherry
for the
financial
year
1984-85.

**Approp-
riation.**

1. This Act may be called the Pondicherry Appropriation (No. 2) Act, 1984.

2. From and out of the Consolidated Fund of the Union territory of Pondicherry 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 Pondicherry Appropriation (Vote on Account) Act, 1984] to the sum of seventy-seven crores, eleven lakhs and eighty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services specified in column 2 of the Schedule.

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

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote/ Ap- prop- ration	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	Legislative Assembly . . Revenue	20,69,000	61,000	₹21,30,000
2	Administrator . . Revenue	20,000	12,58,000	12,78,000
3	Council of Ministers . . Revenue	14,04,000	..	14,04,000
4	Administration of Justice . Revenue	₹35,29,000	..	35,29,000
5	Elections . . . Revenue	6,37,000	..	6,37,000
6	Revenue and Food . . Revenue	1,91,52,000	1,00,000	1,92,52,000
		Capital	22,000	22,000
7	Sales Tax . . . Revenue	17,80,000	..	17,80,000
8	Transport . . . Revenue	22,61,000	..	22,61,000
9	Secretariat . . . Revenue	64,63,000	..	64,63,000
10	District Administration . . Revenue	3,18,85,000	..	3,18,85,000
		Capital	22,50,000	22,50,000
11	Treasury and Accounts Administration . . Revenue	40,25,000	..	40,25,000
12	Police . . . Revenue	2,13,33,000	..	2,13,33,000
13	Jails . . . Revenue	₹ 8,75,000	..	8,75,000
14	Stationery and Printing . Revenue	₹ 51,71,000	..	₹ 51,71,000
15	Retirement Benefits . . Revenue	1,06,98,000	..	1,06,98,000
16	Public Works . . Revenue	6,75,99,000	20,000	6,76,19,000
		Capital	5,75,91,000	5,75,91,000
17	Education . . . Revenue	11,36,59,000	..	11,36,59,000
		Capital	40,000	40,000
18	Medical . . . Revenue	5,49,83,000	..	5,49,83,000
19	Information and Publicity . Revenue	48,08,000	..	48,08,000
20	Labour and Employment . Revenue	58,68,000	..	58,68,000
21	Social Welfare . . . Revenue	3,45,64,000	..	3,45,64,000
22	Co-operation . . . Revenue	1,06,27,000	..	1,06,27,000
		Capital	1,32,08,000	1,32,08,000
23	Statistics . . . Revenue	12,02,000	..	12,02,000
24	Agriculture . . . Revenue	2,41,97,000	..	2,41,97,000
		Capital	2,68,000	2,68,000
25	Animal Husbandry . . Revenue	71,75,000	..	71,75,000

1 No. of Vote/ Approp- riation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
26	Fisheries . . . Revenue	81,75,000	..	81,75,000
	Capital	53,73,000	..	53,73,000
27	Community Development . . . Revenue	26,90,000	..	26,90,000
	Capital	12,00,000	..	12,00,000
28	Industries . . . Revenue	1,13,58,000	..	1,13,58,000
	Capital	60,00,000	..	60,00,000
29	Electricity . . . Revenue	7,08,76,000	..	7,08,76,000
	Capital	7,04,02,000	..	7,04,02,000
30	Ports and Pilotage . . . Revenue	9,44,000	..	9,44,000
	Capital	25,00,000	..	25,00,000
	Public Debt . . . Revenue	..	3,50,34,000	3,50,34,000
	Capital	..	3,27,41,000	3,27,41,000
31	Loans to Government Servants . . . Capital	1,30,88,000	..	1,30,88,000
	TOTAL . . .	70,19,69,000	6,92,14,000	77,11,83,000

.....11.....88, S.2 & Sch. I

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1984

No. 48 of 1984

[16th August, 1984.]

An Act further to amend the Electricity (Supply) Act, 1948.

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

1. (1) This Act may be called the Electricity (Supply) Amendment Act, 1984.

Short title and commencement.

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

2. In section 28 of the Electricity (Supply) Act, 1948 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 28

“(2A) The Board or, as the case may be, the Generating Company shall, as soon as may be after it has sanctioned any scheme which is not of the nature referred to in section 29, forward the scheme to the Authority and, if required by the Authority so to do, supply to the Authority any information incidental or supplementary to the scheme within such period as may be specified by the Authority.”.

3. In section 29 of the principal Act, in sub-section (1), for the words “one crore of rupees”, the words “five crores of rupees” shall be substituted.

Amendment of section 29

1st October 1984, *vide* Notification No. S. O. 718(E), dated 17-2-84, Gazette of India, Extra-ordinary, 1984 Part II, Section 3 (ii).

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

THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1984

No. 49 OF 1984

[16th August, 1984.]

An Act further to amend the Industrial Disputes Act, 1947.

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

Short title and commencement.

Amendment of section 2.

Amendment of section 25F.

Amendment of section 25M.

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 1984.

(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.

2. In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in clause (oo), after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or”.

3. In section 25F of the principal Act, in clause (a), the proviso shall be omitted.

4. In section 25M of the principal Act,—

(a) in sub-section (1), for the words “with the previous permission of such authority as may be specified by the appropriate Government by notification in the Official Gazette, unless such lay-off is due to shortage of power or to natural calamity”, the words and brackets “with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion” shall be substituted;

¹ 18th August 1984, *widely* Notification No. S. O. 605(E), dated 18-8-1984, Gazette of India, Extraordinary 1984 Part II, Section 3(ii).

(b) for sub-sections (2) to (5), the following sub-sections shall be substituted, namely:—

"(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workmen (other than *badli* workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made; the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order";

(c) sub-section (6) shall be re-numbered as sub-section (10).

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

Substitution of new section for section 25N.
Conditions precedent to retrenchment of workmen.

"25N. (1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired; or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified

REPEALED

authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months."

6. In section 25Q of the principal Act, the words, brackets, letter and figures "clause (c) of sub-section (1) or sub-section (4) of" shall be omitted.

Amend-
ment of
section
25Q.

7. In the Industrial Disputes (Amendment) Act, 1982,—

(a) in sub-section (2) of section 1, after the words "by notification in the Official Gazette, appoint", the words ", and different dates may be appointed for different provisions of this Act" shall be inserted;

Amend-
ment of
Act 46 of
1982.

(b) section 13 shall be omitted.

THE APPROPRIATION (No. 4) ACT, 1984

No. 50 OF 1984

[16th August, 1984.]

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 1984-85.

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

1. This Act may be called the Appropriation (No. 4) Act, 1984.

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 nine hundred and sixty-three crores, sixty-nine lakhs and thirty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1984-85, in respect of the services specified in column 2 of the Schedule.

Issue
of Rs.
963,69,
33,000
out of the
Consoli-
dated
Fund of
India for
the year
1984-85.

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

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
1	Department of Agriculture and Co-operation . . . Revenue	1,00,000	..	1,00,000
2	Agriculture Revenue	103,99,00,000	..	103,99,00,000
	Capital		60,00,00,000	60,00,00,000
5	Forest Revenue	1,000	..	1,000
6	Co-operation Capital	..	5,00,00,000	5,00,00,000
9	Ministry of Chemicals and Fertilizers . . . Revenue	2,48,25,000	..	2,48,25,000
	Capital	..	3,23,00,000	3,23,00,000
11	Foreign Trade and Export Production . . . Revenue	60,00,000	..	60,00,000
	Capital	12,75,00,000	..	12,75,00,000
12	Textiles, Handloom and Handicrafts . . . Capital	60,00,00,000	..	60,00,00,000
25	Education Revenue	10,00,00,000	..	10,00,00,000
28	Department of Petroleum . . . Revenue	12,00,00,000	..	12,00,00,000
29	Department of Power . . . Revenue	2,00,00,000	..	2,00,00,000
	Capital	2,00,00,000	11,00,00,000	13,00,00,000
31	Department of Non-Conventional Energy Sources . . . Revenue	30,00,00,000	..	30,00,00,000
	Capital	14,75,99,000	..	14,75,99,000
39	Currency, Coinage and Mint Revenue	18,25,00,000	..	18,25,00,000
	Capital	54,75,00,000	..	54,75,00,000
43	Other Expenditure of the Ministry of Finance . . . Capital	148,74,94,000	1,20,00,000	149,94,94,000
46	Department of Civil Supplies Revenue	6,00,000	..	6,00,000
	Capital	1,57,68,000	..	1,57,68,000
53	Police Revenue	60,50,000	50,000	61,00,000
54	Other Administrative and General Services . . . Revenue	..	1,00,000	1,00,000
62	Industries Revenue	30,55,00,000	..	30,55,00,000
	Capital	23,86,53,000	..	23,86,53,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
63	Village and Small Industries Revenue	150,00,00,000	..	150,00,00,000
66	Broadcasting . . . Capital	1,000	13,05,000	13,06,000
67	Ministry of Irrigation . . . Revenue	15,00,00,000	..	15,00,00,000
70	Department of Rehabilitation . . . Capital	2,67,00,000	..	2,67,00,000
76	Ministry of Rural Development . . . Revenue	1,000	..	1,000
79	Ports, Lighthouses and Shipping . . . Capital	1,90,00,000	..	1,90,00,000
80	Road and Inland Water Transport . . . Capital	45,00,00,000	..	45,00,00,000
83	Department of Mines . . . Capital	40,00,00,000	..	40,00,00,000
86	Aviation . . . Revenue	5,48,00,000	..	5,48,00,000
89	Public Works . . . Capital	1,000	..	1,000
90	Water Supply and Sewerage . . . Revenue	50,00,00,000	..	50,00,00,000
91	Housing and Urban Development . . . Revenue	10,00,00,000	..	10,00,00,000
96	Department of Electronics . . . Capital	33,01,00,000	..	33,01,00,000
99	Department of Science and Technology . . . Revenue	50,00,000	..	50,00,000
	Capital	50,00,000	..	50,00,000
108	Department of Parliamentary Affairs . . . Revenue	5,85,000	..	5,85,000
TOTAL . . .		883,11,78,000	80,57,55,000	963,69,33,000

THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 1984

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

CENTRAL REGISTRAR AND REGISTRATION OF SOCIETIES

4. Central Registrar.
5. Multi-State co-operative societies which may be registered.
6. Application for registration.
7. Registration.
8. Registration certificate.
9. Amendment of bye-laws of a multi-State co-operative society.
10. When amendment of bye-laws comes into force.
11. Change of name.
12. Change of address.
13. Liability.
14. Amalgamation or transfer of assets and liabilities, or division of multi-State co-operative societies.
15. Central Registrar to prepare scheme of amalgamation or reorganisation of co-operative bank in certain cases.
16. Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.
17. Cancellation of registration certificate of multi-State co-operative societies in certain cases.
18. Conversion of co-operative society into multi-State co-operative society.

CHAPTER III

MEMBERS OF MULTI-STATE CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

19. Persons who may become members.
20. Members not to exercise rights till due payment made.
21. Expulsion of members.
22. Votes of members.

SECTIONS

23. Manner of exercising vote.
24. Restrictions on holding of shares.
25. Restrictions on transfer of shares or interest.
26. Redemption of shares.
27. Transfer of interest on death of members.
28. Liability of past member and estate of deceased member.

CHAPTER IV**DIRECTION AND MANAGEMENT OF MULTI-STATE CO-OPERATIVE SOCIETIES**

29. General body, its constitution, powers and functions.
30. Annual general meeting of the general body.
31. Special general meeting of the general body.
32. Board of directors.
33. Association of employees in the management decision making process.
34. Disqualification for a member of a board.
35. Election of members of board.
36. Holding of office in co-operative society.
37. Restrictions on holding of office.
38. Payment of honorarium.
39. Removal of elected members by general body.
40. Removal of member by Central Registrar.
41. Nominee of Central Government or State Government on the board.
42. Powers and functions of the board.
43. Meetings of the board.
44. Chief Executive.
45. Powers and functions of Chief Executive.
46. Committees of the board.
47. Central Government's power to give directions in the public interest.
48. Supersession of board.
49. Securing possession of records, etc.
50. Constitution of body of persons for preparation of list, etc.
51. Acts of multi-State co-operative societies not to be invalidated by certain defects.

CHAPTER V**PRIVILEGES OF MULTI-STATE CO-OPERATIVE SOCIETIES**

52. Multi-State co-operative society to be body corporate.
53. Charge and set-off, in respect of share or contribution or interest of members.
54. Share or contribution or interest not liable to attachment.
55. Register of members.
56. Admissibility of copy of entry as evidence.

SECTIONS

57. Exemption from compulsory registration of instruments.
58. Deduction from salary to meet multi-State co-operative society's claim in certain cases.
59. Government aid to multi-State co-operative societies.

CHAPTER VI**PROPERTIES AND FUNDS OF MULTI-STATE CO-OPERATIVE SOCIETIES**

60. Funds not to be divided by way of profit.
61. Disposal of net profits.
62. Investment of funds.
63. Restrictions on loans.
64. Restrictions on borrowing.
65. Restrictions on other transactions with non-members.
66. Contributory provident fund.

CHAPTER VII**AUDIT, INQUIRY, INSPECTION AND SURCHARGE**

67. Audit.
68. Inspection of multi-State co-operative societies.
69. Inquiry by Central Registrar.
70. Inspection of books of indebted multi-State co-operative societies.
71. Costs of inquiry and inspection.
72. Recovery of costs.
73. Repayment, etc.

CHAPTER VIII**SETTLEMENT OF DISPUTES**

74. Disputes.
75. Limitation.
76. Settlement of disputes.

CHAPTER IX**WINDING UP OF MULTI-STATE CO-OPERATIVE SOCIETIES**

77. Winding up of multi-State co-operative societies.
78. Winding up of co-operative banks at the direction of Reserve Bank.
79. Reimbursement to the Deposit Insurance Corporation by liquidator.
80. Liquidator.
81. Powers of liquidator.
82. Disposal of surplus assets.
83. Priority of contributions assessed by liquidator.
84. Power of Central Registrar to cancel registration of a multi-State co-operative society.

CHAPTER X

EXECUTION OF DECREES, ORDERS AND DECISIONS

SECTIONS

85. Execution of decisions, etc.
86. Execution of orders of liquidator.
87. Attachment before award.
88. Central Registrar or the person authorised by him to be civil court for certain purposes.
89. Recovery of sums due to Government.

CHAPTER XI

APPEALS AND REVISION

90. Appeals.
91. No appeal or revision in certain cases.
92. Revision.
93. Review.
94. Interlocutory orders.

CHAPTER XII

SOCIETIES WHICH BECOME MULTI-STATE CO-OPERATIVE SOCIETIES CONSEQUENT ON REORGANISATION OF STATES

95. Co-operative societies functioning immediately before reorganisation of States.

CHAPTER XIII

OFFENCES AND PENALTIES

96. Offences.
97. Cognizance of offences.

CHAPTER XIV

MISCELLANEOUS

98. Copy of Act, rules and bye-laws, etc., to be open to inspection.
99. Power to exempt multi-State co-operative societies from conditions as to registration.
100. Liquidator to be public servant.
101. Notice necessary in suits.
102. Certain Acts not to apply.
103. Savings of existing multi-State co-operative societies.
104. Power to amend Second Schedule.
105. Bar of jurisdiction of courts.
106. Powers of civil court.
107. Indemnity.
108. Opening of branches.
109. Power to make rules.
110. Repeal.

THE FIRST SCHEDULE

THE SECOND SCHEDULE

THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 1984

No. 51 OF 1984

[18th August, 1984.]

An Act to consolidate and amend the law relating to co-operative societies with objects not confined to one State and serving the interests of members in more than one State.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Multi-State Co-operative Societies Act, 1984.

Short title, extent and commencement.

(2) It extends to the whole of India.

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

Application.

2. This Act shall apply to—

(a) all co-operative societies, with objects not confined to one State, which were incorporated before the commencement of this Act,

(i) under the Co-operative Societies Act, 1912, or

(ii) under any other law relating to co-operative societies in force in any State or in pursuance of the Multi-unit Co-operative Societies Act, 1942,

of 1912.

6 of 1942.

and the registration of which has not been cancelled before such commencement; and

(b) all multi-State co-operative societies.

¹ 16th September 1985, *vide* Notification No. G.S.R. 737 (E), dated 16-9-1985, Gazette of India, Extra-ordinary, 1985, Part II, Section 3(i).

**Defini-
tions.**

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

- (a) "board" means the board of directors or the governing body of a multi-State co-operative society by whatever name called, to which the direction and control of the management of the affairs of the society is entrusted;
- (b) "bye-laws" means the bye-laws for the time being in force which have been duly registered under this Act and includes amendments thereto which have been duly registered under this Act;
- (c) "Central Registrar" means the Central Registrar of Co-operative Societies appointed under sub-section (1) of section 4 and includes any officer empowered to exercise the powers of the Central Registrar under sub-section (2) of that section;
- (d) "Chief Executive" means a Chief Executive of a multi-State co-operative society appointed under section 44;
- (e) "co-operative bank" means a multi-State co-operative society which undertakes banking business;
- (f) "co-operative principles" means the co-operative principles specified in the First Schedule;
- (g) "co-operative society" means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;
- (h) "co-operative year", in relation to any multi-State co-operative society or class of such societies, means the year ending on the 30th day of June and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day;
- (i) "Deposit Insurance Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961;
- (j) "member" means a person joining in the application for the registration of a multi-State co-operative society and includes a person admitted to membership after such registration in accordance with the provisions of this Act, the rules and the bye-laws;
- (k) "multi-State co-operative society" means a society registered or deemed to be registered under this Act and includes a national co-operative society;
- (l) "multi-State co-operative society with limited liability" means a society having the liability of its members limited by its bye-laws to the amount, if any, unpaid on the shares respectively,

held by them or to such amount as they may, respectively, thereby undertake to contribute to the assets of the society, in the event of its being wound up;

(m) "national co-operative society" means a multi-State co-operative society specified in the Second Schedule;

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

(o) "officer" means a president, vice-president, chairman, vice-chairman, managing director, secretary, manager, member of a board, treasurer, liquidator, an administrator appointed under section 48 and includes any other person empowered under this Act or the rules or the bye-laws to give directions in regard to the business of a multi-State co-operative society;

(p) "prescribed" means prescribed by rules;

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

(r) "rules" means the rules made under this Act.

CHAPTER II

CENTRAL REGISTRAR AND REGISTRATION OF SOCIETIES

4. (1) The Central Government may appoint a person to be the Central Registrar of Co-operative Societies and may appoint such other persons as it may think fit to assist the Central Registrar.

Central
Regis-
trar.

(2) The Central Government may, by notification, direct that any power exercisable by the Central Registrar under this Act (other than the power of registration of a multi-State co-operative society) shall in relation to such society, and such matters as may be specified in the notification be exercisable also by any other officer of the Central Government or of a State Government as may be authorised by the Central Government subject to such conditions as may be specified therein:

Provided that no officer of a State Government shall be empowered to exercise such power in relation to a national co-operative society:

Provided further that no officer of a State Government below the rank of the Registrar of Co-operative Societies shall be empowered to exercise any power exercisable by the Central Registrar under section 87.

5. (1) No multi-State co-operative society shall be registered under this Act, unless the main objects of the society are to serve the interests of members in more than one State.

(2) Subject to the provisions of sub-section (1), a multi-State co-operative society, which has as its objects the promotion of the economic and social betterment of its members through mutual aid in accordance with the co-operative principles or a multi-State co-operative society

Multi-
State co-
operative
societies
which
may be
register-
ed.

established with the object of facilitating the operations of other such societies or of co-operative societies or of both may be registered under this Act.

(3) The word "Limited" or its equivalent in any Indian language shall be suffixed to the name of every multi-State co-operative society registered under this Act with limited liability.

Application for registration.

6. (1) For the purposes of registration of a multi-State co-operative society under this Act, an application shall be made to the Central Registrar in such form and with such particulars as may be prescribed.

(2) The application shall be signed—

(a) in the case of a multi-State co-operative society of which all the members are individuals, by at least fifty persons from each of the States concerned;

(b) in the case of a multi-State co-operative society of which the members are co-operative societies, by duly authorised representatives on behalf of at least two such societies as are not registered in the same State; and

(c) in the case of a multi-State co-operative society of which another multi-State co-operative society and other co-operative societies are members, by duly authorised representatives of each of such societies:

Provided that not less than two of the co-operative societies referred to in clause (b) or clause (c), as the case may be, shall be such as are not registered in the same State.

(3) The application shall be accompanied by four copies of the proposed bye-laws of the multi-State co-operative society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Central Registrar may require.

Registration.

7. (1) If the Central Registrar is satisfied—

(a) that the application complies with the provisions of this Act and the rules;

(b) that the proposed multi-State co-operative society satisfies the basic criterion that its objects are to serve the interests of members in more than one State;

(c) that there is no other multi-State co-operative society having similar area of operation and identical objects;

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and

(e) that the proposed multi-State co-operative society has reasonable prospects of becoming a viable unit,

he may register the multi-State co-operative society and its bye-laws.

(2) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of refusal together with the reasons therefor, to such number of the applicants and in such manner as may be prescribed.

(3) The application for registration shall be disposed of by the Central Registrar within a period of six months from the date of receipt thereof by him:

Provided that if the Central Registrar is unable to dispose of the application within the period aforesaid, he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to dispose of such application.

8. Where a multi-State co-operative society is registered under this Act, the Central Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the society therein mentioned is duly registered under this Act, unless it is proved that the registration of the society has been cancelled.

Registration certificate.

9. (1) No amendment of any bye-laws of a multi-State co-operative society shall be valid, unless such amendment has been registered under this Act.

Amendment of bye-laws of a multi-State co-operative society.

(2) Every proposal for such amendment shall be forwarded to the Central Registrar and if the Central Registrar is satisfied that the proposed amendment—

(a) is not contrary to the provisions of this Act or of the rules;

(b) does not conflict with co-operative principles; and

(c) will promote the economic interests of the members of the multi-State co-operative society,

he may register the amendment within a period of six months from the date of receipt thereof by him:

Provided that if the Central Registrar is unable to register the amendment within the period aforesaid he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to register the amendment.

(3) The Central Registrar shall forward to the multi-State co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Central Registrar refuses to register an amendment of the bye-laws of a multi-State co-operative society, he shall communicate the order of refusal together with the reasons therefor to the Chief Executive of the society in the manner prescribed within seven days from the date of such refusal.

When
amend-
ment of
bye-laws
comes
into
force.

Change
of name.

Change of
address.

Liability.

10. An amendment of the bye-laws of a multi-State co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

11. (1) A multi-State co-operative society may, by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the multi-State co-operative society or of any of its members or past members, and any legal proceedings which might have been continued or commenced by or against the multi-State co-operative society by its former name may be continued or commenced by or against its new name.

(2) Where a multi-State co-operative society changes its name, the Central Registrar shall enter the new name on the register of multi-State co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

12. Every multi-State co-operative society shall have a principal place of business and an address registered in the manner prescribed to which all notices and communications may be sent and any change in the principal place of business of a multi-State co-operative society shall be made with the previous approval of the Central Registrar.

13. (1) No multi-State co-operative society with unlimited liability shall be registered after the commencement of this Act:

Provided that where a multi-unit co-operative society with unlimited liability was functioning before the commencement of this Act, such a society shall exercise the option within a period of one year from such commencement either to continue to function as such or to convert itself into a multi-State co-operative society with limited liability by following the procedure specified in sub-sections (2) to (4).

(2) Subject to the provisions of this Act and the rules, a multi-unit co-operative society may, by an amendment of its bye-laws, change the extent of its liability.

(3) When a multi-unit co-operative society has passed a resolution to change the extent of its liability, it shall give notice thereof in writing to all its members and creditors, and, notwithstanding anything contained in the bye-laws or contract to the contrary, any member or creditor shall, during the period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(4) Any member or creditor who does not exercise his option within the period specified in sub-section (3) shall be deemed to have assented to the change.

(5) An amendment of a bye-law of a multi-unit co-operative society changing the extent of its liability shall not be registered or shall not take effect until either—

(a) the assent thereto of all members and creditors has been obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (3) within the period specified therein have been met in full or otherwise satisfied.

14. (1) A multi-State co-operative society may, with the prior consultation of the Central Registrar and by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of the society held for the purpose,—

(a) transfer its assets and liabilities in whole or in part to any other multi-State co-operative society or co-operative society;

(b) divide itself into two or more multi-State co-operative societies;

(c), divide itself into two or more co-operative societies.

(2) Any two or more multi-State co-operative societies may, with the prior consultation of the Central Registrar and by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of each such society, amalgamate themselves and form a new multi-State co-operative society.

(3) The resolution of a multi-State co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer or division or amalgamation, as the case may be:

Provided that in the case of a co-operative bank, the Central Registrar shall not accord approval to any such resolution without the previous sanction in writing of the Reserve Bank.

(4) When a multi-State co-operative society has passed a resolution under sub-section (1) or sub-section (2), it shall give notice thereof in writing to all the members and creditors and, notwithstanding anything contained in the bye-laws or contract to the contrary, any member or creditor, shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) (a) A resolution passed by a multi-State co-operative society under this section shall not take effect until the assent thereto of all the members and creditors has been obtained.

(b) The multi-State co-operative society shall make arrangements for meeting in full or otherwise satisfying all claims of the members and creditors who exercise the option within the period specified in sub-section (4).

(7) On receipt of an application for the registration of new societies formed by division in accordance with the resolution passed under sub-section (1) or of a new society formed by amalgamation in accordance with the resolution passed under sub-section (2), the Central Registrar, on being satisfied that the resolution has become effective under sub-section (6) shall, unless for reasons to be recorded in writing he thinks fit to refuse so to do, register the new societies or society, as the case may be, and the bye-laws thereof.

(8) On the issue of an order under sub-section (7), the provisions of section 17 shall, so far as may be, apply to the multi-State co-operative society so divided or the multi-State co-operative societies so amalgamated.

Amalgamation or transfer of assets and liabilities or division of multi-State co-operative societies.

(9) Where a resolution passed by a multi-State co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any other law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

Central Registrar to prepare scheme of amalgamation or reorganisation of co-operative bank in certain cases.

Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.

Cancellation of registration certificate of multi-State co-operative societies in certain cases.

15. When an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 in respect of a co-operative bank, the Central Registrar, with the previous approval of the Reserve Bank in writing, may, during the period of moratorium, prepare a scheme—

- (a) for the amalgamation of the co-operative bank with any other co-operative bank; or
- (b) for the reorganisation of the co-operative bank.

16. Notwithstanding anything contained in section 14 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is amalgamated or reorganised and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated, or the new co-operative bank formed after such amalgamation, or, as the case may be, the insured bank or transferee bank shall be under an obligation to repay to the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

10 of 1949.

47 of 1961.

17. (1) Where the whole of the assets and liabilities of a multi-State co-operative society are transferred to another multi-State co-operative society or to a co-operative society in accordance with the provisions of section 14, the registration of the first-mentioned multi-State co-operative society shall stand cancelled and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more multi-State co-operative societies are amalgamated into a new multi-State co-operative society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society, and each of the amalgamating societies shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a multi-State co-operative society divides itself into two or more multi-State co-operative societies or two or more co-operative societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(4) The amalgamation or division of multi-State co-operative societies shall not in any manner whatsoever affect any right or obligation of the resulting multi-State co-operative society or societies or render defective any legal proceedings by or against the multi-State co-operative society or societies, and any legal proceedings that might have been continued or concluded by or against the multi-State

co-operative society or societies, as the case may be, before the amalgamation or division may be continued or commenced by or against the resulting multi-State co-operative society or societies.

18. (1) A co-operative society may, by an amendment of its bye-laws, extend its jurisdiction and convert itself into a multi-State co-operative society:

Provided that no such amendment of bye-laws of a co-operative society shall be valid unless it has been registered by the Central Registrar.

(2) (a) Every proposal for such amendment shall be forwarded to the Central Registrar.

(b) If the Central Registrar, after consulting the Registrars of Co-operative Societies of the States concerned, has satisfied himself that such amendment fulfils the requirement of sub-section (2) of section 9, he may register the amendment within a period of six months from the date of receipt thereof by him:

Provided that if the Central Registrar is unable to register the amendment within the period aforesaid, he shall make a report to the Central Government stating therein the reasons for his inability to do so, and the Central Government may allow him such further period or periods as is considered necessary to register the amendment.

(3) The Central Registrar shall forward to the co-operative society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been registered.

(4) Where the Central Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor to the society in the manner prescribed within seven days from the date of refusal.

(5) (a) Once the amendment of bye-laws has been registered by the Central Registrar, the co-operative society shall, as from the date of registration of amendment, become a multi-State co-operative society.

(b) The Central Registrar shall forward to the co-operative society a certificate signed by him to the effect that such society has been registered as a multi-State co-operative society under this Act and also forward a copy of the same to the Registrar of Co-operative Societies of the State concerned.

(c) The Registrar of Co-operative Societies referred to in clause (b) shall thereupon make an order directing that the society had, as from the date of registration by the Central Registrar, ceased to be a society under the law relating to co-operative societies in force in that State.

CHAPTER III

MEMBERS OF MULTI-STATE CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

19. (1) No person shall be admitted as member of a multi-State co-operative society except the following, namely:—

(a) an individual competent to contract under section 11 of the Indian Contract Act, 1872;

Conversion
of co-
operative
society
into
multi-
State co-
operative
society.

Persons
who may
become
members.

(b) any multi-State co-operative society or any co-operative society;

(c) the Central Government;

(d) a State Government;

(e) the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962;

(f) any other corporation owned or controlled by Government;

(g) any Government company as defined in section 617 of the Companies Act, 1956;

(h) such class or classes of persons or association of persons as may be permitted by the Central Registrar having regard to the nature and activities of a multi-State co-operative society.

(2) Such number of individuals possessing such qualifications as may be prescribed may be admitted as members of the National Co-operative Union of India Limited, New Delhi.

(3) Save as otherwise provided in sub-section (2) and notwithstanding anything contained in sub-section (1), no individual shall be eligible for admission as a member of a national co-operative society.

(4) Any person eligible for membership of a multi-State co-operative society may, on his application, be admitted as a member by such society.

(5) Every application for admission as a member of a multi-State co-operative society shall be disposed of by such society within a period of four months from the date of receipt of the application, and the decision of such society on the application shall be communicated to the applicant within fifteen days from the date of such decision:

Provided that if the application is not disposed of within the period aforesaid, or the decision is not communicated within a period of fifteen days of the expiry of the aforesaid period of four months, the multi-State co-operative society shall be deemed to have made a decision, on the date of expiry of such period, refusing admission to the applicant.

(6) Notwithstanding anything contained in this section, the Central Government may, having regard to the fact that the interest of any person or class of persons conflicts or is likely to conflict with the objects of any multi-State co-operative society or class of multi-State co-operative societies, by general or special order published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified multi-State co-operative society or class of multi-State co-operative societies, so long as such person or persons is or are engaged in or carrying on that profession, business or employment, as the case may be.

20. No member of a multi-State co-operative society shall exercise the rights of a member, unless he has made such payments to the society in respect of membership, or has acquired such interest in the society, as may be specified in the bye-laws.

Members
not to
exercise
rights
till due
payment
made.

26 of 1962.

1 of 1956.

21. (1) A multi-State co-operative society may, by resolution passed by a majority of not less than two-thirds of the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society:

Provided that the member concerned shall not be expelled unless he has been given a reasonable opportunity of making representation in the matter.

(2) No member of the multi-State co-operative society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, for a period of three years from the date of such expulsion:

Provided that the Central Registrar may, on application of the multi-State co-operative society and if satisfied that in the special circumstances of the case, it is necessary so to do in the interests of the multi-State co-operative society, sanction the re-admission or admission within the said period, of any such member as a member of the said society.

22 Every member of a multi-State co-operative society, including a member who is an employee of such society, shall have one vote in the affairs of the society:

Provided that—

(a) a member who is an employee of such society shall not be entitled to vote—

(i) at an election of a member of the board of such society;

(ii) in any general meeting convened for framing the bye-laws of such society or any amendments thereto;

(b) in the case of an equality of votes, the Chairman shall have a second or casting vote;

(c) where any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 is a member of a multi-State co-operative society, each person nominated by such authority, on the board, in accordance with the provisions contained in this Act and the rules, shall have one vote;

(d) a multi-State co-operative society, the members of which include co-operative societies or other multi-State co-operative societies, may provide for an equitable system of voting having regard to the membership of, and the extent of business carried on by such co-operative societies, or multi-State co-operative societies and other relevant circumstances.

23. Every member of a multi-State co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy:

Provided that a multi-State co-operative society or a co-operative society which is a member of another multi-State co-operative society, may, subject to the provisions of sub-section (3) of section 29 and the

Expulsion
of
members.

Votes of
members.

Manner
of exer-
cising
vote.

rules, appoint its representative to vote on its behalf in the affairs of that other society.

Restrictions on holding of shares.

24. No member, other than any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 or a multi-State co-operative society or a co-operative society, shall hold more than such portion of the total share capital of the society (in no case exceeding one-fifth thereof) as may be prescribed:

Provided that the Central Government may, by notification, specify in respect of any class of societies a higher or lower maximum than one-fifth of the share capital.

Restriction on transfer of shares or interest.

25. The transfer of the share or interest of a member in the capital of a multi-State co-operative society shall be subject to such conditions as to maximum holding as are specified in section 24.

Redemption of shares.

26. Shares held in a multi-State co-operative society by any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 19 shall be redeemable in accordance with the bye-laws of such multi-State co-operative society and in a case where the bye-laws do not contain any provision in this regard, in such manner as may be agreed upon between the multi-State co-operative society and such authority.

Transfer of interest on death of members.

27. (1) On the death of a member, a multi-State co-operative society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the board to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules:

Provided that no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A multi-State co-operative society shall, unless within six months of the death of the member prevented by an order of a competent court, pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(3) All transfers and payments made by a multi-State co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member and estate of deceased member.

28. (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a multi-State co-operative society for the debts of the society as they existed,—

(a) in the case of a past member, on the date on which he ceased to be a member;

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Notwithstanding anything contained in sub-section (1), where a multi-State co-operative society is ordered to be wound up under section 77, the liability of a past member who ceased to be a member or of the estate of a deceased member who died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of cessation of membership or death, as the case may be.

CHAPTER IV

DIRECTION AND MANAGEMENT OF MULTI-STATE CO-OPERATIVE SOCIETIES

29. (1) The general body of a multi-State co-operative society shall consist of all the members of such society:

Provided that where the bye-laws of a multi-State co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected or selected in accordance with such bye-laws, that smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society.

(2) Subject to the provisions of this Act, the rules and the bye-laws, the ultimate authority of a multi-State co-operative society shall vest in the general body of its members:

Provided that nothing contained in this sub-section shall affect the exercise by the board or any officer of a multi-State co-operative society of any power conferred on such board or such officer by this Act or the rules or the bye-laws.

(3) Where in any meeting of the general body or the board of a multi-State co-operative society, a co-operative society or another multi-State co-operative society is to be represented, such co-operative society or other multi-State co-operative society shall be represented in such meeting only through the Chairman or the Chief Executive of such co-operative society or other multi-State co-operative society, as the case may be, and where there is no board of such co-operative society or other multi-State co-operative society, for whatever reasons, through the administrator, by whatever name called, of such co-operative society or other multi-State co-operative society.

30. (1) Every multi-State co-operative society shall, within such period as may be prescribed, after the close of the year, call a general meeting of its members in the manner prescribed for the purpose of—

- (a) consideration of the audit report and annual report;
- (b) disposal of net profits;
- (c) approval of the programme of activities for the ensuing year;
- (d) amendment of bye-laws;
- (e) election, if any, of the members of the board, other than nominated members, subject to the provisions of section 35:

Provided that the Central Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months:

General body, its constitution, powers and functions.

Annual general meeting of the general body.

Provided further that if in the opinion of the Central Registrar no such extension is necessary or such meeting is not called by the multi-State co-operative society within the extended period, if any, granted by him, the Central Registrar or any person authorised by him in this behalf may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society and the Central Registrar may order that expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Central Registrar, was or were responsible for the refusal or failure to convene the general meeting.

(2) At every annual general meeting of a multi-State co-operative society the Board shall lay before the society a statement showing the details of the loans or goods on credit, if any, given to any of the members of the board or to the spouse or a son or daughter of a member of the board during the preceding year or outstanding against him or against such spouse or son or daughter of the member of the board.

Special general meeting of the general body.

31. (1) The Chief Executive may, at any time, on the direction of the board, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Central Registrar or from such member or members or a proportion of the total number of members, as may be provided in the bye-laws.

(2) If a special general meeting of a multi-State co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Central Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the Chief Executive in accordance with the provisions of that sub-section and the Central Registrar may order that the expenditure incurred in calling such meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Central Registrar, was or were responsible for the refusal or failure to convene the special general meeting.

Board of directors.

32. Subject to the provisions of this Act and the rules, there shall be a board of directors for every multi-State co-operative society consisting of such number of members as may be provided for under the bye-laws.

Association of employees in the management decision making process.

33. Every multi-State co-operative society shall devise such procedure, as may be specified in the bye-laws or in the administrative instructions, for association of the representatives of employees of such multi-State co-operative societies at such level or bodies as may be specified in the bye-laws or the instructions issued in this regard, in the management decision making process.

Disqualification for a member of a board.

34. No member of any multi-State co-operative society or nominee of a member-society on a national co-operative society shall be eligible for being chosen as, or for being, a member of the board of such multi-State co-operative society or national co-operative society or of any other co-operative society to which the multi-State co-operative society is affiliated, if such member—

- (a) has been adjudged by a competent court to be insolvent or of unsound mind;
- (b) is concerned or participates in the profits of any contract with the society;
- (c) has been convicted for an offence involving moral turpitude;
- (d) holds any office or place of profit under the society;

Provided that the Chief Executive or such full-time employee of the society as may be notified by the Central Government from time to time or a person elected by the employees of such society to represent them on the board of such society shall be eligible for being chosen as, or for being, a member of such board;

(e) has been a member of the society for less than twelve months immediately preceding the date of such election or appointment;

(f) has interest in any business of the kind carried on by the society of which he is a member;

(g) has taken loan or goods on credit from the society of which he is a member, or is otherwise indebted to such society and after the receipt of a notice of default issued to him by such society, has defaulted—

(i) in repayment of such loan or debt or in payment of the price of the goods taken on credit, as the case may be, within the date fixed for such repayment or payment or where such date is extended, which in no case shall exceed six months, within the date so extended, or

(ii) when such loan or debt or the price of goods taken on credit is to be paid in instalments, in payment of any instalment, and the amount in default or any part thereof has remained unpaid on the expiry of six months from the date of such default;

Provided that a member of the board who has ceased to hold office as such under this clause shall not be eligible, for a period of one year, from the date on which he ceased to hold office, for re-election as a member of the board of the multi-State co-operative society of which he was a member or for election to the board of any other multi-State co-operative society;

(h) is a person against whom any amount due under a decree, decision or order is pending recovery under this Act;

(i) is retained or employed as a legal practitioner on behalf of or against the multi-State co-operative society, or on behalf of or against any other multi-State co-operative society which is a member of the former society.

*Explanation.—*For the purposes of this clause “legal practitioner” has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961;

(j) has been convicted for any offence under this Act.

Election of members of board.

35. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, elections of the members of the board of such multi-State co-operative societies or class of multi-State co-operative societies as the Central Government may, by general or special order, notify, shall be vested in such returning officers as may be appointed by the Central Registrar in this behalf.

(2) The vote at such elections shall be by secret ballot.

(3) The term of office of the elected members of the board shall be such, not exceeding three years from the date of election, as may be specified in the bye-laws of a multi-State co-operative society:

Provided that the elected members shall continue to hold office till their successors are elected or nominated under the provisions of this Act or the rules or the bye-laws and assume the charge of their office.

(4) No person shall be eligible to be elected as a member of the board of a multi-State co-operative society unless he is a member of the general body of that society.

(5) The Central Government may make rules generally to provide for or to regulate matters in respect of elections of members of the board.

Holding of office in co-operative society.

36. Notwithstanding anything contained in this Act, no person shall be eligible to hold, at the same time, office of a president or chairman or vice-president or vice-chairman on the board of more than one multi-State co-operative society:

Provided that any person holding, at the commencement of this Act, the office of a president or chairman or vice-president or vice-chairman in more than one multi-State co-operative society shall, within three months from such commencement by notice in writing signed by him, intimate the name of the multi-State co-operative society in which he wishes to serve and thereupon his office in the other multi-State co-operative society in which he does not wish to serve shall become vacant:

Provided further that in default of such intimation within the period referred to in the preceding proviso, his offices in all the multi-State co-operative societies shall, at the expiration of the period aforesaid, become vacant.

Restrictions on holding of office.

37. No person shall be eligible to hold the office of a president or chairman or vice-president or vice-chairman on the board of a multi-State co-operative society, after he has held the office as aforesaid during two consecutive terms, whether full or part;

Provided that a person who has ceased to hold the office of a president or chairman continuously for one full term of three years shall again be eligible for election to the offices aforesaid.

Explanation.—Where any person holding the office of the president or vice-president or chairman or vice-chairman at the commencement of this Act is again elected to that office after such commencement, he shall for the purpose of this section, be deemed to have held office for one term before such election.

38. Honorarium may be paid to the elected chairman or president of the board out of the profits of the multi-State co-operative society in respect of specific services rendered by him, subject to such restrictions and conditions as may be prescribed.

39. An elected member of a board who has acted adversely to the interests of multi-State co-operative society may, on the basis of a report from the Central Registrar or otherwise, be removed from the board upon a resolution of the general body passed at its meeting by a majority of not less than two-thirds of the members present and voting at the meeting:

Provided that the member concerned shall not be removed unless he has been given a reasonable opportunity of making representation in the matter.

40. If in spite of cessation of office under circumstances mentioned in section 34, section 36, section 37 or section 39 a member of the board refuses to vacate his office, the Central Registrar shall, by order in writing, remove him from such office.

41. (1) Where the Central Government or a State Government has subscribed to the share capital of a multi-State co-operative society or has guaranteed the repayment of principal and payment of interest on debentures issued by a multi-State co-operative society or has guaranteed the repayment of principal and payment of interest on loans and advances to a multi-State co-operative society, the Central Government or the State Government in this behalf, as the case may be, or any person authorised by the Central Government or the State Government, shall have the right to nominate on the board such number of persons as may be prescribed.

(2) The bye-laws of a multi-State co-operative society may provide for the nomination of persons in excess of the limits prescribed under sub-section (1).

(3) A person nominated under this section shall hold office during the pleasure of the Government by which he has been so nominated.

42. (1) The board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such power shall include the power—

(a) to admit members;

(b) to interpret the organisational objectives and set up specific goals to be achieved towards these objectives;

(c) to make periodic appraisal of operations;

(d) to appoint a Chief Executive and such other employees of the society (out of the list of persons referred to in section 50) as are not required to be appointed by the Chief Executive;

(e) to make provisions for regulating the appointment of employees of the multi-State co-operative society and the scales of pay, allowances and other conditions of service of, including disciplinary action against, such employees;

Payment
of hono-
rarium.

Removal
of elected
members
by
general
body.

Removal
of mem-
ber by
Central
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Nominee
of Cen-
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ernment
or State
Govern-
ment
on the
board.

Powers
and
functions
of the
board.

- (f) to approve annual and supplementary budget;
- (g) to acquire or dispose of immovable property;
- (h) to raise funds;
- (i) to sanction loans to the members; and
- (j) to take such other measures or to do such other acts as may be prescribed or required under this Act.

**Meetings
of the
board.**

43. (1) The Chief Executive shall convene the meetings of the board at the instance of the chairman or president of the multi-State co-operative society.

(2) The total number of meetings of the board in a year and the venue of meetings may be such as may be prescribed:

Provided that the board shall meet at least once in every quarter.

**Chief
Executive.**

44. (1) There shall be a Chief Executive, by whatever designation called, of every multi-State co-operative society, to be appointed by the board and he shall be a full-time employee of such multi-State co-operative society.

(2) The Chief Executive shall be a member of the board and of the Executive Committee and such other committees or sub-committees as may be constituted under sub-section (1) of section 46.

(3) The functional directors in national co-operative societies shall also be members of the board.

(4) Where the Central Government has subscribed to the extent of more than one-half of the share capital of a national co-operative society, it shall be obligatory on such a society to seek prior approval of the Central Government to the appointment of Chief Executive and the functional directors.

**Powers
and
functions
of Chief
Exe-
cutive.**

45. The Chief Executive shall exercise the powers and discharge the functions, specified below; namely:—

(a) day-to-day management of the business of the multi-State co-operative society;

(b) operating the accounts of the multi-State co-operative society and be responsible for making arrangements for safe custody of cash;

(c) signing on the documents for and on behalf of the multi-State co-operative society;

(d) making arrangements for the proper maintenance of various books and records of the multi-State co-operative society and for the correct preparation, timely submission of periodical statements and returns in accordance with the provisions of this Act, the rules and the bye-laws;

(e) convening meetings of the general body of the multi-State co-operative society, the board and the Executive Committee and other committees or sub-committees constituted under sub-section (1) of section 46 and maintaining proper records for such meetings;

(f) making appointments to posts in the multi-State co-operative society in accordance with the rules made under clause (e) of sub-section (2) of section 42 except the posts in relation to which the

power of appointment vests in the board under clause (d) of that sub-section;

(g) assisting the board in the formulation of policies and objectives and planning;

(h) furnishing to the board periodical information necessary for appraising the operations and functions of the multi-State co-operative society;

(i) performing such other duties, and exercising such other powers, as may be prescribed or as may be specified in the bye-laws of the multi-State co-operative society.

46. (1) The board may, subject to such conditions as may be prescribed, constitute an Executive Committee and other committees or sub-committees, as may be considered necessary.

(2) The Executive Committee or other committee or sub-committee referred to in sub-section (1) shall perform such functions as are assigned to it in accordance with the bye-laws of the multi-State co-operative society.

47. If the Central Government is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other developmental programmes approved or undertaken by the Central Government or to secure proper management of the business of the multi-State co-operative societies generally or for preventing the affairs of the multi-State co-operative society being conducted in a manner detrimental to the interests of the members, any depositors or creditors thereof, it is necessary to issue directions to any class of multi-State co-operative societies generally or to any multi-State co-operative society or societies in particular, the Central Government may issue directions to them or to it, from time to time, and all such multi-State co-operative societies or the society concerned, as the case may be, shall be bound to comply with such directions.

48. (1) If in the opinion of the Central Registrar the board of any multi-State co-operative society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or has committed any act which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 47 or that there is a stalemate in the constitution or functions of the board, the Central Registrar may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, remove the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding one year, as may be specified in the order, which period may, at the discretion of the Central Registrar, be extended from time to time; so, however, that the aggregate period does not exceed two years.

(2) The Central Registrar may fix such remuneration for the administrators, as he may think fit and the remuneration shall be paid out of the funds of the multi-State co-operative society.

(3) The administrator shall, subject to the control of the Central Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the board or of

Com-
mittees
of the
board,

Central
Govern-
ment's
power to
give
directions
in the
public
interest.

Super-
session of
board.

any officer of the multi-State co-operative society and take all such actions as may be required in the interests of the society.

(4) Save as otherwise provided in sub-section (5), the administrator shall, before the expiry of his term of office, arrange for the constitution of a new board in accordance with the bye-laws of the multi-State co-operative society.

(5) If at any time during the period the administrator is in office, the Central Registrar considers it necessary or expedient so to do, he may, by order in writing giving reasons therefor, direct the administrator to arrange for the constitution of a new board for such multi-State co-operative society in accordance with the bye-laws of such society and immediately on the constitution of such board, the administrator shall hand over the management of such society to such newly constituted board and cease to function.

(6) Where a multi-State co-operative society is indebted to any financial institution, the Central Registrar shall, before taking any action, under sub-section (1) in respect of that society, consult the financial institution.

(7) Notwithstanding anything contained in this Act, the Central Registrar shall, in the case of a co-operative bank, if so required in writing by the Reserve Bank in the public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of a co-operative bank, pass an order for the supersession of the board of that co-operative bank and for the appointment of an administrator therefor for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank.

Securing possession of records, etc.

49. (1) If—

(a) the records (including registers and books of accounts) of a multi-State co-operative society are likely to be tampered with or destroyed or the funds or other property of such society are likely to be misappropriated or misapplied; or

(b) the board of a multi-State co-operative society is reconstituted at a general meeting of the society; or

(c) the board of a multi-State co-operative society is removed by the Central Registrar under sub-section (1) of section 48; or

(d) a multi-State co-operative society is ordered to be wound up under section 77 and the outgoing members of the board refuse to hand over charge of the records and property of the society to those having, or entitled to receive, such charge,

the Central Registrar may apply to the magistrate within whose jurisdiction the multi-State co-operative society functions for securing the records and property of the society.

(2) On receipt of an application under sub-section (1), the magistrate may, by a warrant, authorise any police officer not below the rank of a sub-inspector to enter and search any place where such records and property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new board or administrator of the multi-State co-operative society or the liquidator, as the case may be.

(3) Every such search and seizure shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973

50. The Central Government shall—

- (a) constitute a body of persons in the manner prescribed for the preparation of a list of persons eligible for appointment to the posts of Chief Executives and other managerial posts in national co-operative societies, the maximum pay-scale of which exceeds such amount as may be prescribed;
- (b) make rules for regulating the recruitment, remuneration, allowances and other conditions of service of officers and other employees of national co-operative societies.

51. No act of a multi-State co-operative society or of any board or of any committee or of any officer of the society shall be deemed to be invalid by reason only of the existence of any defect in the procedure or in the constitution of the society or of the board or of the committee thereof or in the appointment or election of an officer or on the ground that such officer was disqualified to hold office.

CHAPTER V

PRIVILEGES OF MULTI-STATE CO-OPERATIVE SOCIETIES

52. The registration of a multi-State co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

53. A multi-State co-operative society shall have a charge on the share or contribution or interest in the capital and on the deposits of a member or past or deceased member and on any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set-off any sum credited or payable to a member or past member or the estate of deceased member in or towards payment of any such debt.

54. (1) Subject to the provisions of section 53, the share or contribution or interest of a member or past or deceased member in the capital of a multi-State co-operative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt or liability incurred by such member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to or have any claim on such share or contribution or interest.

(2) The reserve fund, or the bad debt reserves, or the provident fund of the employees, of a multi-State co-operative society invested by such society in accordance with the provisions of this Act and the rules shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

55. Any register or list of members or shares kept by any multi-State co-operative society shall be *prima facie* evidence of any of the following particulars entered therein, namely:—

- (a) the date on which any person entered in such register or list became a member;

Constitution of body of persons for preparation of list, etc.

Acts of multi-State co-operative societies not to be invalidated by certain defects.

Multi-State co-operative society to be body corporate.

Charge and set off, in respect of share or contribution or interest of members.

Share or contribution or interest not liable to attachment.

Register of members.

Admissibility of copy of entry as evidence.

(b) the date on which any such person ceased to be a member.

56. (1) A copy of any entry in a book of a multi-State co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of a multi-State co-operative society and no officer in whose office the books of a multi-State co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under an order of a court or an arbitrator made for a special cause.

Exemption from compulsory registration of instruments.

57. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Registration Act, 1908, shall apply to—

16 of 1908.

(a) any instrument relating to shares in a multi-State co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(b) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder thereof to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) an endorsement upon or transfer of any debenture issued by any such society.

Deduction from salary to meet multi-State co-operative society's claim in certain cases.

58. (1) Notwithstanding anything contained in any law for the time being in force, a member of a multi-State co-operative society may execute an agreement in favour of that society providing that his employer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer disbursing the salary or wages of the members shall, if so required by the multi-State co-operative society by a requisition in writing and so long as the society does not intimate that the whole of such debt or other demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within a period of fourteen days of the date on which deduction has been made, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936, and such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

4 of 1936

(3) If after the receipt of a requisition made under sub-section (2) the employer disbursing the salary or wages of the member at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the multi-State co-operative society, the society shall be entitled to recover any such amount from such employer as arrears of land revenue and the amount so due from such employer shall rank in priority in respect of the liability of such employer equal to that of the salary or wages in arrears.

59. Notwithstanding anything contained in any law for the time being in force, the Central Government or a State Government may, with a view to promoting co-operative movement,—

- (a) subscribe to the share capital of a multi-State co-operative society;
- (b) give loans or make advances to a multi-State co-operative society;
- (c) guarantee the repayment of principal and payment of interest on debentures issued by a multi-State co-operative society;
- (d) guarantee the repayment of share capital of a multi-State co-operative society and dividends thereon at such rates as may be specified by the Central Government or the State Government;
- (e) guarantee the repayment of principal and payment of interest on loans and advances to a multi-State co-operative society;
- (f) give financial assistance in any other form, including subsidies, to any multi-State co-operative society.

Government aid to multi-State co-operative societies.

CHAPTER VI

PROPERTIES AND FUNDS OF MULTI-STATE CO-OPERATIVE SOCIETIES

60. (1) No part of the funds, other than net profits, of a multi-State co-operative society shall be divided by way of bonus or dividend or otherwise distributed among its members.

(2) The net profits of a multi-State co-operative society referred to in sub-section (1) in respect of a society earning profits shall be calculated by deducting from the gross profits for the year, all interest accrued and accruing in relation to amounts which are overdue, establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, taxes and depreciation, bonus payable to employees under the law relating to payment of bonus for the time being in force, and equalisation fund for such bonus, provision for payment of income-tax and making approved donations under the Income-tax Act, 1961, development rebate, provision for development fund, bad debt fund, price fluctuation fund, dividend equalisation fund, share capital, redemption fund, investment fluctuation fund, provision for retirement benefits to employees, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profit:

Funds not to be divided by way of profit.

Provided that such society may, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year:

Provided further that in case of such multi-State co-operative societies as do not have share capital, the surplus of income over expenditure shall not be treated as net profits and such surplus shall be dealt with in accordance with the bye-laws.

Disposal
of net
profits.

61. (1) A multi-State co-operative society shall, out of its net profits in any year—

(a) transfer an amount not less than twenty-five per cent. to the reserve fund; and

(b) credit such portion, as may be prescribed, to the co-operative education fund maintained by the National Co-operative Union of India Limited, New Delhi.

(2) Subject to such conditions as may be prescribed, the balance of the net profits may be utilised for all or any of the following purposes, namely:—

(a) payment of dividend to members on their paid-up share capital at a rate not exceeding the prescribed limit;

(b) constitution of, or contribution to, such special funds including education funds, as may be specified in the bye-laws;

(c) donation of amounts not exceeding five per cent. of the net profits for any purpose connected with the development of co-operative movement or charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890;

(d) payment of *ex gratia* amount to employees of the multi-State co-operative society to the extent and in the manner specified in the bye-laws.

(3) The funds of a multi-State co-operative society shall not be utilised for any political purpose.

Invest-
ment of
funds.

62. A multi-State co-operative society may invest or deposit its funds—

(a) in a co-operative bank, State co-operative bank, co-operative land mortgage bank, co-operative land development bank or Central co-operative bank; or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or

(c) in the shares or securities of any other multi-State co-operative society or any co-operative society; or

(d) in the shares, securities or assets of any other institution, with the previous approval of the Central Registrar; or

(e) with any bank; or

(f) in such other mode as may be prescribed.

Explanation.—In clause (e), “bank” means any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, and includes,—

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

(ii) a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

6 of 1990

2 of 188

10 of 19

23 of 19

38 of 19

5 of 19

40 of 19

63. (1) A multi-State co-operative society, other than a co-operative bank, shall not make a loan—

Restrictions on loans.

(a) to a member on the security of his share or on the security of a non-member; or

(b) to a non-member:

Provided that with the general or special sanction of the Central Registrar, a multi-State co-operative society may make loans to another multi-State co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a multi-State co-operative society may make a loan to a depositor on the security of his deposit.

64. A multi-State co-operative society shall receive deposits and loans only to such extent and under such conditions as may be specified in the bye-laws:

Restrictions on borrowing.

10 of 1949.

Provided that a co-operative bank shall be governed by the provisions of the Banking Regulation Act, 1949.

65. Save as provided in sections 63 and 64, the transaction of a multi-State co-operative society with any person other than a member shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

Restrictions on other transactions with non-members.

19 of 1952.

66. (1) A multi-State co-operative society having such number or class of employees as may be prescribed may establish a contributory provident fund for the benefit of such employees to which shall be credited all contributions made by the employees and the society in accordance with the bye-laws of the society.

Contributory provident fund.

(2) Monies standing to the credit of any contributory provident fund established by a multi-State co-operative society under sub-section (1) shall not—

(a) be used in the business of the society;

(b) form part of the assets of the society;

(c) be liable to attachment or be subject to any other process of any court or other authority.

(3) Notwithstanding anything contained in this section, a provident fund established by a multi-State co-operative society to which the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, apply, shall be governed by that Act.

CHAPTER VII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

67. (1) The Central Registrar shall audit, or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every multi-State co-operative society at least once in each year.

Audit.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the multi-State co-operative society.

(3) The person auditing the accounts of a multi-State co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(4) The directors, managers, administrators and other officers of the multi-State co-operative society shall furnish to the person auditing the accounts of the society all such information as to its transactions and working as such person may require.

(5) The Central Registrar or the person authorised by him under sub-section (1) to audit the accounts of a multi-State co-operative society shall have power, where necessary—

(a) to summon at the time of the audit any officer, agent, servant or member of the society, past or present, who, he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by any officer, agent, servant, or member of the society in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.

(6) If at the time of audit the accounts of a multi-State co-operative society are not complete, the Central Registrar or the person authorised by him under sub-section (1) to audit may cause the accounts to be written up at the expense of the society.

(7) Audit fee, if any, due from any multi-State co-operative society shall be determined by the Central Registrar and shall be recoverable in the same manner as is provided in section 89.

**Inspection
of multi-
State co-
operative
societies.**

68. (1) The Central Registrar, or any person authorised by him by general or special order in writing in this behalf, may inspect a multi-State co-operative society.

(2) (a) For the purpose of inspection under sub-section (1), the Central Registrar or the person authorised by him under that sub-section shall at all times have access to all books, accounts, papers, vouchers, securities, stock and other property of that society and may, in the event of serious irregularities discovered during inspection, take them into custody and shall have power to verify the cash balance of the society and subject to the general or special order of the Central Registrar to call a meeting of the board and also a general meeting of the society where such general meeting is, in his opinion, necessary.

(b) Every officer or member of a multi-State co-operative society shall furnish such information with regard to the working of the society as the Central Registrar or the person making such inspection may require.

(3) A copy of the report of inspection under this section shall be communicated to the multi-State co-operative society within a period of three months from the date of completion of such inspection.

69. (1) The Central Registrar may, of his own motion or on the application of a majority of the members of the board or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society.

(2) The Central Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely:—

(a) he shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the multi-State co-operative society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, at any place specified by him;

(b) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the multi-State co-operative society, require the officers of the society to call a general meeting of the society by giving notice of not less than seven days at such time and place at the headquarters of the society to consider such matters, as may be directed by him; and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself;

(c) he may summon any person who is reasonably believed by him to have any knowledge of the affairs of the multi-State co-operative society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general meeting of the society called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(4) The Central Registrar shall, within a period of three months of the date of receipt of the report, communicate a brief summary of the report of the inquiry to the multi-State co-operative society, the financial institutions, if any, to which the society is affiliated, and to the person or authority, if any, at whose instance the inquiry is made.

70. (1) The Central Registrar shall, on the application of a creditor of a multi-State co-operative society inspect, or direct some person authorised by him by order in writing in this behalf to inspect, the books of the society:

Provided that no such inspection shall be made unless the applicant—

(a) satisfies the Central Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Central Registrar such sum as security for the costs of the proposed inspection as the Central Registrar may require;

Inquiry
by Cen-
tral Regis-
trar.

Inspec-
tion of
books of
indebted
multi-
State co-
operative
societies.

(2) The Central Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry and inspection.

71. Where an inquiry is held under section 69 or an inspection is made under section 70, the Central Registrar may apportion the costs, or such part of the costs, as he may think fit, between the multi-State co-operative society, the members or creditor demanding an inquiry or inspection, and the officers or former officers and the members or past members of that society:

Provided that—

(a) no order of apportionment of the costs shall be made under this section unless the society or the person liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(b) the Central Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

72. Any sum awarded by way of costs under section 71 may be recovered, on application to a magistrate having jurisdiction in the place where the person, from whom the money is claimable, actually and voluntarily resides or carries on business, and such magistrate shall recover the same as if it were a fine imposed by himself.

Repayment, etc.

73. (1) If in the course of an audit, inquiry, inspection or the winding up of a multi-State co-operative society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Central Registrar may, of his own motion or on the application of the board, liquidator or any creditor, inquire himself or direct any person authorised by him, by an order in writing in this behalf, to inquire into the conduct of such person within a period of two years from the date of the report of the audit, inspection or inquiry or the date of the order of winding up, as the case may be:

Provided that where the Central Registrar is satisfied that such inquiry could not be commenced during the period of two years aforesaid on account of fraud or concealment of facts make, or direct the inquiry to be made, within such period not exceeding six years from the date of the report of the audit, inspection or inquiry or the date of the order of winding up, as he may think fit.

(2) Where an inquiry is made under sub-section (1), the Central Registrar may, after giving the person concerned a reasonable opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate, or to pay contribution and costs or compensation to such extent as the Central Registrar may consider just and equitable.

CHAPTER VIII

SETTLEMENT OF DISPUTES

14 of 1947. 74. (1) Notwithstanding anything contained in any other law for the time being in force, if any dispute (other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947) touching the constitution, management or business of a multi-State co-operative society arises—

- (a) among members, past members and persons claiming through members, past members and deceased members, or
- (b) between a member, past member or a person claiming through a member, past member or deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or
- (c) between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the multi-State co-operative society, or
- (d) between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of another multi-State co-operative society or between the liquidator of one multi-State co-operative society and the liquidator of another multi-State co-operative society,

such dispute shall be referred to the Central Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute:

Provided that all disputes in which a national co-operative society is a party shall be referred to the Central Registrar or any officer empowered to exercise the powers of the Central Registrar.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or business of a multi-State co-operative society, namely:—

- (a) a claim by the multi-State co-operative society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- (b) a claim by a surety against the principal debtor where the multi-State co-operative society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;
- (c) any dispute arising in connection with the election of any officer of a multi-State co-operative society.

(3) If any question arises whether a dispute referred to the Central Registrar is or is not a dispute touching the constitution, management or business of a multi-State co-operative society, the decision thereon of the Central Registrar shall be final and shall not be called in question in any court.

Limitation.

75. (1) Notwithstanding anything contained in the Limitation Act, 1963, but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Central Registrar shall,—

36 of 1963.

(a) when the dispute relates to the recovery of any sum including interest thereon due to a multi-State co-operative society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(b) save as otherwise provided in clause (c), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1) of section 74, be six years from the date on which the act or omission, with reference to which the dispute arose, took place;

(c) when the dispute relates to a multi-State co-operative society which has been ordered to be wound up under section 77 or in respect of which an administrator has been appointed under section 48, be six years from the date of the order issued under section 77 or section 48, as the case may be;

(d) when the dispute is in respect of an election of an officer of a multi-State co-operative society, be one month from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any dispute, except those mentioned in sub-section (1), which are required to be referred to the Central Registrar shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute were a suit and the Central Registrar a civil court.

36 of 1963

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Registrar may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the Central Registrar that he had sufficient cause for not referring the dispute within such period.

Settle-
ment of
disputes.

76. (1) The Central Registrar may, on receipt of the reference of dispute under section 74,—

(a) elect to decide the dispute himself; or

(b) transfer it for disposal to any other person who has been invested by the Central Government with powers in that behalf.

(2) The Central Registrar may withdraw any reference transferred under clause (b) of sub-section (1) and decide it himself or refer the same for decision to any other person who has been invested by the Central Government with powers in that behalf.

(3) The Central Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

CHAPTER IX

WINDING UP OF MULTI-STATE CO-OPERATIVE SOCIETIES

77. (1) If the Central Registrar, after an inquiry has been held under section 69 or an inspection has been made under section 70, or on receipt of an application made by not less than three-fourths of the members of a multi-State co-operative society, is of opinion that the society ought to be wound up, he may, after giving the society a reasonable opportunity of making its representations, by order, direct it to be wound up.

Wind-
ing
up of
multi-
State co-
operative
societies.

(2) The Central Registrar may, of his own motion and after giving the multi-State co-operative society a reasonable opportunity of making its representations, make an order directing the winding up of the multi-State co-operative society—

(a) where it is a condition of the registration of the society that the society shall consist of at least fifty members and the number of members has been reduced to less than fifty; or

(b) where the multi-State co-operative society has not commenced working within a period of six months of the date of its registration or such extended period as the Central Registrar may allow in this behalf or has ceased to function in accordance with co-operative principles.

(3) The Central Registrar may cancel an order for the winding up of a multi-State co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

(4) A copy of such order shall be communicated by registered post to the multi-State co-operative society and to the financial institutions, if any, of which the society is a member.

(5) Notwithstanding anything contained in this section, no co-operative bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

78. Notwithstanding anything to the contrary contained elsewhere in this Act, the Central Registrar shall make an order for the winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

Winding
up of co-
operative
banks at
the direc-
tion of
Reserve
Bank.

of 1981.

7 of 1961.

79. Where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is wound up and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act.

Reim-
bursement
to the
Deposit
Insurance
Corpora-
tion by
liquidator.

Liquidator.

80. (1) Where the Central Registrar has made an order under section 77 for the winding up of a multi-State co-operative society, the Central Registrar may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the multi-State co-operative society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claims and he may carry on the business of the multi-State co-operative society so far as may be necessary with the previous approval of the Central Registrar.

(3) Where an appeal is preferred under clause (k) of sub-section (1) of section 90, an order for the winding up of a multi-State co-operative society made under section 77 shall not operate thereafter until the order is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order for the winding up of a multi-State co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

Powers
of
liqui-
dator.

81. (1) Subject to any rules made in this behalf, the whole of the assets of a multi-State co-operative society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 80 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Central Registrar—

(a) to institute and defend suits and other legal proceedings on behalf of the multi-State co-operative society by the name of his office;

(b) to determine from time to time the contribution (including debts due and costs of liquidation) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the multi-State co-operative society;

(c) to investigate all claims against the multi-State co-operative society and subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the multi-State co-operative society, including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;
 - (f) to determine whether any person is a member, past member or nominee of a deceased member;
 - (g) to give such directions in regard to the collection and distribution of the assets of the multi-State co-operative society as may appear to him to be necessary for winding up the affairs of that society;
 - (h) to carry on the business of the multi-State co-operative society so far as may be necessary for the beneficial winding up of the same;
 - (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the multi-State co-operative society may be rendered liable;
 - (j) to make any compromise or arrangement with any person between whom and the multi-State co-operative society there exists any dispute and to refer any such dispute for decision;
 - (k) after consulting the members of the multi-State co-operative society, to dispose of the surplus, if any, remaining after paying the claims against the society, in such manner as may be prescribed;
 - (l) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or alleged to be subsisting between the multi-State co-operative society and a contributory or other debtor or person apprehending liability to the multi-State co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.
- (3) When the affairs of a multi-State co-operative society have been wound up, the liquidator shall make a report to the Central Registrar and deposit the records of the society in such place as the Central Registrar may direct.

82. The surplus assets, as shown in the report of a liquidator of a multi-State co-operative society which is wound up,—

Disposal of
surplus
assets.

- (a) may, if the bye-laws of the multi-State co-operative society specify the purpose for which surplus shall be utilised, be utilised by the Central Registrar for the said purpose, and
- (b) if the bye-laws aforesaid do not specify the purpose, be divided by the Central Registrar with the previous sanction of the Central Government, amongst the members of such multi-State co-operative society in such manner as may be prescribed.

Priority
of contribu-
tions
assessed
by liqui-
dator.

83. Notwithstanding anything contained in any law relating to insolvency, the contribution assessed by a liquidator shall rank next to debts due to the Central Government or a State Government or a local authority in accordance with the order of priority in insolvency proceedings.

Power of
Central
Registrar
to cancel
registration of a
multi-
State co-
operative
society.

84. (1) The Central Registrar may, after considering the report of the liquidator made to him under sub-section (3) of section 81, order the registration of the multi-State co-operative society to be cancelled and on such cancellation, that society shall stand dissolved.

(2) An order passed under sub-section (1) shall be communicated by registered post to the president of the multi-State co-operative society and to the financial institutions, if any, of which the society was a member.

CHAPTER X

EXECUTION OF DECREES, ORDERS AND DECISIONS

Execu-
tion of
decisions,
etc.

85. Every decision or order made under section 30, section 31, section 73, section 76, section 90, section 92 or section 93 shall, if not carried out,—

(a) on a certificate signed by the Central Registrar or any person authorised by him in writing in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as if it were a decree of such court; or

(b) where the decision or order provides for the recovery of money, be executed according to the law for the time being in force for the recovery of arrears of land revenue:

Provided that any application for the recovery in such manner of any sum shall be made—

(i) to the Collector and shall be accompanied by a certificate signed by the Central Registrar or by any person authorised by him in writing in this behalf;

(ii) within twelve years from the date fixed in the decision or order and if no such date is fixed, from the date of the decision or order, as the case may be; or

(c) be executed by the Central Registrar or any person authorised by him in writing in this behalf, by attachment and sale or sale without attachment of any property of the person or a multi-State co-operative society against whom the decision or order has been made.

Execu-
tion of
orders of
liquidator.

86. Every order made by the liquidator under section 81 shall be executed according to the law for the time being in force for the recovery of arrears of land revenue.

Attach-
ment
before
award.

87. (1) Where the Central Registrar is satisfied that a party to any reference made to him under section 74 with intent to defeat or delay the execution of any decision that may be passed thereon is about to—

(a) dispose of the whole or any part of the property; or

(b) remove the whole or any part of the property from its siting precincts,

the Central Registrar may, unless adequate security is furnished, direct conditional attachment of the said property or such part thereof as he thinks necessary.

(2) The attachment under sub-section (1) shall be executed by a civil court having jurisdiction in the same way as an attachment order passed by itself and shall have the same effect as such order.

88. The Central Registrar or any person authorised by him in writing in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of article 136 of the Schedule to the Limitation Act, 1963.

36 of 1963.

Central
Registrar
or the
person
authorised
by
him to
be civil
court for
certain
purposes.

Recovery
of sums
due to
Govern-
ment.

89. (1) All sums due from a multi-State co-operative society, or from an officer or member or past member of a multi-State co-operative society, to the Central Government or a State Government, including any cost awarded to the Central Government or the State Government, as the case may be, under any provision of this Act, may, on a certificate issued by the Central Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a multi-State co-operative society to the Central Government or a State Government and recoverable under sub-section (1) may be recovered firstly from the property of the society and secondly from the members, past members or the estates of deceased members, subject to the limit of their liability:

Provided that the liability of past members and the estate of deceased members shall in all cases be subject to the provisions of section 28.

CHAPTER XI

APPEALS AND REVISION

90. (1) Subject to the provisions of section 91, an appeal shall lie under this section against—

Appeals.

(a) an order made by the Central Registrar under sub-section

(2) of section 7 refusing to register a multi-State co-operative society;

(b) an order made by the Central Registrar under sub-section (4) of section 9 refusing to register an amendment of the bye-laws of a multi-State co-operative society;

(c) a decision of a multi-State co-operative society refusing or deemed to be refusing under sub-section (5) of section 19 to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of the society;

(d) a decision of a multi-State co-operative society under sub-section (1) of section 21 expelling any of its members;

(e) a decision of a multi-State co-operative society removing an elected member of a board under section 39;

(f) an order made by the Central Registrar under section 40 removing a member from his office;

(g) an order made by the Central Registrar under section 48 superseding the board of directors of a multi-State co-operative society;

(h) an order made by the Central Registrar under section 71 apportioning the costs of an inquiry held under section 69 or an inspection made under section 70;

(i) an order made under sub-section (2) of section 73;

(j) a decision or order made under section 76;

(k) an order made by the Central Registrar under section 77 directing the winding up of a multi-State co-operative society;

(l) an order made by the liquidator of a multi-State co-operative society under section 81;

(m) an order under section 87 directing attachment of property before award.

(2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of such decision or order,—

(a) if the decision or order was made by the Central Registrar, to the prescribed authority;

(b) if the decision was made by a multi-State co-operative society (other than a national co-operative society), or a liquidator of such society, to the officer who is empowered to exercise the powers of the Central Registrar under sub-section (2) of section 4; or

(c) if the decision was made by a national co-operative society or a liquidator of such society, to the Central Registrar appointed under sub-section (1) of section 4.

(3) The appellate authority may, if satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period of sixty days, admit the appeal within such further period not exceeding sixty days as that authority may deem fit.

(4) In disposing of an appeal under this section, the appellate authority may, after giving the parties a reasonable opportunity of making their representations, pass such order thereon as that authority may deem fit.

(5) The decision or order of the appellate authority on appeal shall be final.

No appeal
or revi-
sion in
certain
cases.

91. Notwithstanding anything contained in this Act, where with the previous sanction in writing of, or on requisition by, the Reserve Bank, a co-operative bank—

(a) is being wound up; or

(b) in respect of which a scheme of amalgamation or reorganisation is given effect to; or

(c) in respect of which an order for the supersession of the board and the appointment of an administrator therefor has been made,

no appeal, revision or review thereagainst shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question.

Revision.

92. (1) Subject to the provisions of section 91, the Central Government may, of its own motion or on an application, call for and examine the records of any proceedings in which no appeal lies to the appellate authority under section 90 for the purpose of satisfying itself as to the legality or propriety of any decision or order made under this Act and if

in any case it shall appear to the Central Government that any such decision or order should be modified, annulled or revised or remitted for reconsideration, the Central Government may, after giving the party to be affected thereby a reasonable opportunity of being heard, pass such order thereon as it may deem fit:

Provided that the application to the Central Government for the exercise of the power under this section shall be preferred within ninety days from the date on which the decision or order to which the application relates was communicated to the applicant:

Provided further that the Central Government may, if satisfied that the appellant was prevented by sufficient cause from making the application within the said period of ninety days, admit the application after the expiry of the said period.

(2) The Central Government may suspend the execution of the decision or order pending the exercise of its power under sub-section (1) in respect thereof.

(3) The Central Government may award costs in proceedings under this section to be paid out of the funds of the multi-State co-operative society concerned or by such party to the application for revision as the Central Government may deem fit.

93. (1) The appellate authority under section 90 may, on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit:

Review.

Provided that no such application shall be entertained unless the appellate authority is satisfied that there has been a discovery of new and important matter or evidence which after exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) by any party shall be made within thirty days from the date of communication of the order of the appellate authority sought to be reviewed.

94. Where an appeal is made under section 90 or where the Central Government calls for the records of a case under section 92, the appellate authority or the Central Government, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders, including an order of stay, pending the decision of the appeal or revision as such authority or the Central Government may deem fit.

Interlocutory orders.

CHAPTER XII

SOCIETIES WHICH BECOME MULTI-STATE CO-OPERATIVE SOCIETIES CONSEQUENT ON REORGANISATION OF STATES

95. (1) Where by virtue of the provisions of Part II of the States Reorganisation Act, 1956, or any other enactment relating to reorganisation of States, any co-operative society which immediately before the day on which the reorganisation takes place, had its objects

Co-operative societies functioning.

Immediately before re-organisation of States.

confined to one State becomes, as from that day, a multi-State co-operative society, it shall be deemed to be a multi-State co-operative society registered under the corresponding provisions of this Act and the bye-laws of such society shall, in so far as they are not inconsistent with the provisions of this Act, continue to be in force until altered or rescinded.

(2) If it appears to the Central Registrar or any officer authorised in this behalf by the Central Government (hereafter in this section referred to as the authorised officer) that it is necessary or expedient to reconstitute or reorganise any society referred to in sub-section (1), the Central Registrar or the authorised officer, as the case may be, may, with the previous approval of the Central Government, place before a meeting of the general body of that society, held in such manner as may be prescribed, a scheme for the reconstitution or reorganisation, including proposals regarding—

(a) the formation of new multi-State co-operative societies and the transfer thereto in whole or in part, of the assets and liabilities of that society, or

(b) the transfer, in whole or in part, of the assets and liabilities of that society to any other multi-State co-operative society in existence immediately before the date of that meeting of the general body (hereafter in this section referred to as the existing multi-State co-operative society).

(3) If the scheme is sanctioned by a resolution passed by a majority of the members present at the said meeting, either without modifications or with modifications to which the Central Registrar or the authorised officer agrees, he shall certify the scheme and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law, regulation or bye-laws for the time being in force, be binding on all the societies affected by the scheme, as well as the shareholders and creditors of all such societies.

(4) If the scheme is not sanctioned under sub-section (3), the Central Registrar or the authorised officer may refer the scheme to such Judge of the appropriate High Court, as may be nominated in this behalf by the Chief Justice thereof, and the decision of that Judge in regard to the scheme shall be final and shall be binding on all the societies affected by the scheme as well as the shareholders and creditors of all such societies.

Explanation.—In this sub-section, “appropriate High Court” means the High Court within the local limits of whose jurisdiction the principal place of business of the multi-State co-operative society is situated.

(5) Notwithstanding anything contained in this section, where a scheme under sub-section (2) includes any proposal regarding the transfer of the assets and liabilities of any multi-State co-operative society referred to in clause (b) thereof, the scheme shall not be binding on such multi-State co-operative society or the shareholders and creditors thereof, unless the proposal regarding such transfer is accepted by that multi-State co-operative society by a resolution passed by a majority of the members present at a meeting of its general body.

CHAPTER XIII

OFFENCES AND PENALTIES

96. (1) A multi-State co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

(2) Any employer who without sufficient cause, fails to pay to a multi-State co-operative society the amount deducted by him under section 58 within a period of fourteen days from the date on which such deduction is made, shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five hundred rupees.

(3) Any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a multi-State co-operative society of which he is an officer or custodian, to a person entitled under section 49, section 67, section 68, section 69 or section 80 shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing breach, with a further fine which may extend to five hundred rupees for every day during which the breach is continued after conviction for the first such breach.

97. (1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Central Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

CHAPTER XIV

MISCELLANEOUS

98. Every multi-State co-operative society shall keep a copy of this Act, the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times at the registered address of the society.

99. (1) Notwithstanding anything contained in this Act, the Central Government may, by general or special order, for reasons to be recorded therein, and subject to such conditions, if any, as may be specified therein exempt any multi-State co-operative society or class of such societies from any of the requirement of this Act relating to registration.

Offences.

Cogni-
zance of
offences.Copy of
Act,
rules
and bye-
laws, etc.,
to be
open to
inspection.Power to
exempt
multi-
State co-
operative
societies
from
conditions
as to
registra-
tion.

(2) (a) The Central Government may, by general or special order and for reasons to be recorded therein,—

(i) exempt any multi-State co-operative society or any class of such societies from any of the provisions of this Act or of the rules; or

(ii) direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order:

Provided that no order shall be made under sub-clause (ii) so as to prejudice the interests of such society or class of such societies without a reasonable opportunity being given to make representation in the matter.

(b) Every order made under clause (a) shall be published in the Official Gazette.

Liquidator to be public servant.

Notice necessary in suits.

Certain Acts not to apply.

Savings of existing multi-State co-operative societies.

100. Any person appointed as liquidator under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

101. No suit shall be instituted against a multi-State co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of ninety days next after notice in writing has been delivered to the Central Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

102. (1) The provisions of the Companies Act, 1956 and the Monopolies and Restrictive Trade Practices Act, 1969 shall not apply to multi-State co-operative societies.

1 of 1956
54 of 1969.

(2) The multi-State co-operative societies registered or deemed to be registered under the provisions of this Act shall not indulge in monopolistic and restrictive trade practices, as defined in the Monopolies and Restrictive Trade Practices Act, 1969.

54 of 1969.

103. (1) Every multi-State co-operative society existing immediately before the commencement of this Act which has been registered under the Co-operative Societies Act, 1912 or under any other Act relating to co-operative societies in force, in any State or in pursuance of the provisions of the Multi-unit Co-operative Societies Act, 1942, shall be deemed to be registered under the corresponding provisions of this Act, and the bye-laws of such society shall, in so far as they are not inconsistent with the provisions of this Act, or the rules, continue to be in force until altered or rescinded.

2 of 1912.

6 of 1942.

(2) All appointments, rules and orders made, all notifications and notices issued and all suits and other proceedings instituted under any of the Acts referred to in sub-section (1) shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act, save that an order made cancelling the registration of a multi-State co-operative society shall be deemed, unless the society has already been finally liquidated, to be an order made under section 77 for its being wound up.

104. (1) If the Central Government is satisfied that any multi-State co-operative society should be designated as a national co-operative society or any national co-operative society specified in the Second Schedule should be omitted from the said Schedule, it may, by notification, amend the said Schedule so as to include therein such multi-State co-operative society or exclude therefrom such national co-operative society, and thereupon the said Schedule shall be deemed to have been amended accordingly.

Power to
amend
Second
Schedule.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

105. (1) Save as otherwise provided in this Act, no court shall have jurisdiction in respect of—

Bar of
jurisdi-
ction of
courts.

(a) the registration of a multi-State co-operative society or its bye-laws or of an amendment of the bye-laws;

(b) the removal of board of directors;

(c) any dispute required under section 74 to be referred to the Central Registrar; and

(d) any matter concerning the winding up and the dissolution of a multi-State co-operative society.

(2) While a multi-State co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against the liquidator or against the society or any member thereof, except by leave of the Central Registrar and subject to such terms and conditions as he may impose.

(3) Save as otherwise provided in this Act, no decision or order made under this Act shall be questioned in any court.

Powers
of civil
court.

5 of 1908.

106. (1) In exercising the functions conferred on him by or under this Act, the Central Registrar, or any other person deciding a dispute under section 76 and the liquidator of a multi-State co-operative society and a person entitled to audit, inspect or hold an inquiry under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

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

(b) requiring the discovery and production of any document;

(c) proof of facts by affidavits; and

(d) issuing commissions for examination of witnesses.

(2) In the case of an affidavit, any officer appointed by the Central Registrar, or any other person deciding a dispute or the liquidator, as the case may be, may administer oath to the deponent.

Indem-
nity.

107. No suit, prosecution or other legal proceedings shall lie against the Central Registrar or any person subordinate to him or acting on his authority or against any other person, in respect of anything in good faith done or purporting to have been done under this Act.

108. (1) Notwithstanding anything contained to the contrary in any law relating to co-operative societies in force in a State, a multi-State co-operative society, not being co-operative bank, may open branches or places of business in any place in India.

Opening of
branches.

(2) Where a multi-State co-operative society opens branches or places of business in any State under sub-section (1), the Registrar of Co-operative Societies in such State shall not exercise any jurisdiction in relation to such branches or places of business nor shall call for any returns or information therefrom.

Power to
make
rules.

109. (1) The Central Government may, by notification, make rules to carry 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:—

(i) the form to be used, the particulars to be given and the conditions to be complied with in the making of applications under section 6 for the registration of a multi-State co-operative society and the procedure in the matter of such applications;

(ii) the number of the applicants and the manner in which the order of refusal to register a multi-State co-operative society and its bye-laws shall be communicated under sub-section (2) of section 7;

(iii) the manner in which the order of refusal to register any amendment of the bye-laws shall be communicated under sub-section (4) of section 9 and section 18;

(iv) the procedure and conditions for change in the extent of the liability of a multi-State co-operative society under section 13;

(v) the matters in respect of which a multi-State co-operative society may make bye-laws and the procedure to be followed in making, altering and abrogating bye-laws under section 9 or section 18 and the conditions to be satisfied prior to such making, alteration or abrogation;

(vi) the conditions to be complied with under section 19 by persons applying for admission as members, for the election and admission of members and the payment to be made and the interest to be acquired before the exercise of the right of membership;

(vii) the number of individuals who may be admitted as members of the National Co-operative Union of India Limited, New Delhi as required by section 19 and their qualifications;

(viii) the withdrawal and expulsion of members and the payments, if any, to be made to members who withdraw or are expelled and the liability of past members or the estates of deceased members;

(ix) the votes of members, as required by section 22;

(x) the maximum number of shares of a multi-State co-operative society which may, subject to the provisions of section 24, be held by a member;

(xi) the constitution and powers of a smaller body representing the general body under section 29;

(xii) general meeting of the members under section 30, the period within which such meeting be called and the procedure at such meetings and the powers to be exercised by such meetings;

(xiii) the proportion of individuals and multi-State co-operative societies in the constitution of the board of directors and the general body under section 32;

(xiv) the election of members of the boards under section 35 and nomination of members to such boards under section 41, the appointment or election of officers and the powers to be exercised and the duties to be performed by the boards and other officers;

(xv) the restrictions and conditions subject to which honararium may be paid under section 38 to the elected chairman or president of the board of directors for services rendered;

(xvi) the additional measures and acts which may be taken or, as the case may be, done by the board under section 42;

(xvii) the number of meetings of the board, the venue of such meetings and the number of committees or sub-committees for purposes of sections 43 and 46;

(xviii) the appointment and regulation of work entrusted to persons replacing the board in pursuance of section 48;

(xix) the constitution of a body of persons under section 50 for the preparation of a list of persons eligible for appointment to the posts of Chief Executives and other management posts in national co-operative societies and the amount of the maximum pay-scale applicable to such posts;

(xx) the recruitment, remuneration, allowances and other conditions of service of officers and other employees of national co-operative societies under section 50;

(xxi) prohibiting a multi-State co-operative society from electing a defaulting member, or a representative of defaulting member-society, on its board;

(xxii) the returns to be submitted by a multi-State co-operative society to the Central Registrar, the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such returns, the levy of expenses of preparing it;

(xxiii) the persons by whom and the form in which copies of entries in books of multi-State co-operative societies may be certified under section 56 and the charges to be levied for the supply of such copies;

(xxiv) the terms and conditions on which the Central Government may make share-capital contribution or give financial or other assistance to multi-State co-operative societies under section 59 and the terms and conditions on which the Central Government may guarantee the payment of the principal or interest on debentures issued by multi-State co-operative societies or loans or deposits raised by them;

(xxv) the procedure to be followed in proceedings before the Central Registrar or other persons deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests, and the levy of expenses relating to such proceedings;

(xxvi) the mode in which the value of a deceased member's share or interest shall be ascertained and the nomination of a person to whom such share or interest may be paid or transferred;

(xxvii) the payments to be made and conditions to be complied with by members applying for loans, the period for which any loans may be made and the maximum amount which may be lent to any members;

(xxviii) the formation and maintenance of reserve funds and other funds under section 61 and the objects to which such funds may be applied, and the investment of any funds under the control of a multi-State co-operative society under section 62;

(xxix) the conditions under which profits may be distributed under section 61 to the members of a multi-State co-operative society and the maximum rate of dividend which may be paid by multi-State co-operative societies;

(xxx) the prohibitions and restrictions subject to which multi-State co-operative societies may, under section 65, transact business with persons who are not members;

(xxxi) the accounts and books to be kept by a multi-State co-operative society and the audit of such accounts and the charges, if any, to be made for such audit under section 67 and the periodical publication of a balance-sheet showing the assets and liabilities of a multi-State co-operative society;

(xxxii) the calculation and writing off of bad debts by multi-State co-operative societies;

(xxxiii) the appointment of persons for settlement of disputes under section 76;

(xxxiv) the procedure to be followed by a liquidator appointed under section 80 in respect of provisions of section 81;

(xxxv) the manner in which the surplus assets may be divided amongst the members of the multi-State co-operative society under section 82;

(xxxvi) the procedure for execution of decisions under section 85;

(xxxvii) the procedure to be followed in presenting and disposing of appeals under section 90;

(xxxviii) the issue and service of processes and for proof of service thereof;

(xxxix) the manner of effecting attachment;

(xl) the custody, preservation and sale of property under attachment;

(xli) the investigation of claims by persons other than the defaulter to any right or interest in the attached property, and the postponement of sale pending such investigation;

(xlii) the immediate sale of perishable articles;

(xliii) the inspection of documents in the office of the Central Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same;

(xliv) the manner in which funds may be raised by a multi-State co-operative society or a class of multi-State co-operative societies by means of shares or debentures or otherwise and the quantum of funds so raised;

(xlv) the procedure under section 95 for reconstitution and re-organisation of societies which become multi-State co-operative societies consequent on reorganisation of a State;

(xlvi) the method of communicating or publishing any decision or order required to be communicated or published under this Act or the rules;

(xlvii) the manner and the periodicity of returns of pending cases of registration of multi-State co-operative societies and amendments of bye-laws to be sent by the Central Registrar to the Central Government;

(xlviii) 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 to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

6 of 1942.

110. The Multi-unit Co-operative Societies Act, 1942, is hereby repealed.

THE FIRST SCHEDULE

[See section 3(f)]

Co-operative principles

1. Membership of a multi-State co-operative society (hereafter in this Schedule referred to as the society) should be voluntary and open, without any social, political, or religious discrimination, to all persons who can make use of its services.

2. In a society other than that with institutional membership, individual member should enjoy equal rights of voting—one member, one vote.

3. (i) Surplus or savings, if any, arising out of the operations of the society belong to the society as a whole, and no individual member has a claim to the surplus.

- (ii) The surplus should be utilised for all or any of the following purposes, namely:—
- (a) providing for development of the business of the society;
 - (b) providing services for the common enjoyment of members;
 - (c) distribution among the members in proportion to their transactions with the society.
4. The society should undertake education of its members, office-bearers and employees and the general public regarding the principles and practice of co-operation.
5. The society should actively co-operate in every practical way with other co-operative societies at local, national or international levels.
6. The share capital of a society shall receive strictly limited rate of interest (that is to say, dividend).
7. The affairs of a society should be administered by the management in accordance with democratically expressed will of the members.
8. The management of the society is accountable to its own members.

THE SECOND SCHEDULE

[See sections 3(m) and 104]

List of national co-operative societies

1. National Co-operative Land Development Banks Federation Limited, Hyderabad.
2. National Federation of State Co-operative Banks Limited, Bombay.
3. National Co-operative Union of India Limited, New Delhi.
4. National Agricultural Co-operative Marketing Federation of India Limited, New Delhi.
5. National Co-operative Consumers' Federation of India Limited, New Delhi.
6. National Federation of Co-operative Sugar Factories Limited, New Delhi.
7. National Federation of Industrial Co-operatives Limited, New Delhi.
8. National Co-operative Housing Federation Limited, New Delhi.
9. Indian Farmers' Fertiliser Co-operative Limited, New Delhi.
10. All India Federation of Co-operative Spinning Mills Limited, Bombay.
11. All India Industrial Co-operative Banks' Federation Limited, Bangalore.

12. National Co-operative Dairy Federation of India Limited, New Delhi.
13. Petron Co-operative Limited, New Delhi.
14. National Heavy Engineering Co-operative Limited, New Delhi.
15. The All India Handloom Fabrics Marketing Co-operative Society Limited, Bombay.
16. The National Federation of Urban Co-operative Banks and Credit Societies Limited, New Delhi.
17. Krishak Bharati Co-operative Limited, New Delhi.
18. National Federation of Fishermen's Co-operative Limited, Bombay.
19. National Federation of Labour Co-operatives Limited, New Delhi.
20. National Co-operative Tobacco Growers' Federation Limited, Anand.

THE INDIAN VETERINARY COUNCIL ACT, 1984

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

INDIAN VETERINARY COUNCIL

3. Establishment and composition of the Council.
4. Mode of election of members.
5. Term of office of President, Vice-President and members.
6. Cessation of membership.
7. Casual vacancies.
8. Resignation.
9. Meetings of the Council.
10. Vacancies in the Council not to invalidate acts, etc.
11. Appointment of Secretary and other officers or servants.
12. Executive Committee and other Committees.
13. Fees and allowances.
14. Information to be furnished by the Council and publication thereof.
15. Recognition of veterinary qualifications granted by veterinary institutions in India.
16. Recognition of veterinary qualifications granted by veterinary institutions in countries with which there is a scheme of reciprocity.
17. Special provisions in certain cases for recognition of veterinary qualifications granted by veterinary institutions in countries with which there is no scheme of reciprocity.
18. Power to require information as to courses of study and examinations.
19. Inspection of veterinary institutions and examinations,

SECTIONS

20. Appointment of visitors.
21. Withdrawal of recognition.
22. Minimum standards of veterinary education.

CHAPTER III**INDIAN VETERINARY PRACTITIONERS REGISTER**

23. Indian veterinary practitioners register.
24. Registration in the Indian veterinary practitioners register.
25. Issue of certificate of registration.
26. Registration of additional qualifications.
27. Removal of names from the Indian veterinary practitioners register.
28. Person enrolled on Indian veterinary practitioners register to notify change of place of residence or practice.

CHAPTER IV**PRIVILEGES OF REGISTERED VETERINARY PRACTITIONERS**

29. Privileges of persons who are enrolled on the Indian veterinary practitioners register.
30. Right of persons who are enrolled on the Indian veterinary practitioners register.

CHAPTER V**DISCIPLINE**

31. Professional conduct.

CHAPTER VI**STATE VETERINARY COUNCILS**

32. Establishment and composition of State Veterinary Councils.
33. Inter-State agreements.
34. Composition of Joint State Veterinary Councils.
35. Incorporation of State Veterinary Councils.
36. President.
37. Mode of elections.
38. Terms of office and casual vacancies.
39. Resignation.
40. Executive and other Committees.
41. Fees and allowances.
42. Appointment of Registrar and other officers or servants.
43. Information to be furnished by State Veterinary Council.

CHAPTER VII

REGISTRATION

SECTIONS

44. Preparation and maintenance of State veterinary practitioners register.
45. First preparation of register.
46. Qualifications for entry on preparation of register.
47. Scrutiny of applications for registration.
48. Renewal fees.
49. Removal from the register.
50. Restoration to State veterinary register.
51. Printing of State veterinary register.

CHAPTER VIII

MISCELLANEOUS

52. Transfer of registration.
53. Bar of jurisdiction.
54. Issue of duplicate certificates.
55. Penalty for falsely claiming to be registered.
56. Misuse of titles.
57. Practice by unregistered persons.
58. Failure to surrender certificate of registration.
59. Cognizance of offence.
60. Bar of suit and other legal proceedings.
61. Payment of part of fees to Council.
62. Accounts and audit.
63. Appointment of Commission of Inquiry.
64. Power of Central Government to make rules.
65. Power of State Government to make rules.
66. Power to make regulations.
67. Repeal and saving.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE INDIAN VETERINARY COUNCIL ACT, 1984

No. 52 of 1984

[18th August, 1984.]

An Act to regulate veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers of the veterinary practitioners and for matters connected therewith.

WHEREAS it is expedient to make provision for the regulation of veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers of persons qualified to engage in veterinary practice for the whole of India and for matters connected therewith or ancillary thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Veterinary Council Act, 1984.

(2) It extends, in the first instance, to the whole of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan and to all Union territories; and it shall also extend to such other States as may adopt this Act by resolution passed in that behalf in pursuance of clause (1) of article 252 of the Constitution.

(3) It shall come into force in a State or Union territory to which it extends, or may become extended in future, on such date as the Central

Short titles, extent and commencement.

Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act or for different States or Union territories.

Definitions.

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

- (a) "Council" means the Veterinary Council of India established under section 3;
- (b) "member" means a member of the Council;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "President" means the President of the Council;
- (e) "recognised veterinary qualification" means any of the veterinary qualifications included in the First Schedule or the Second Schedule;
- (f) "register" means a register maintained under this Act;
- (g) "registered veterinary practitioner" means a person whose name is for the time being duly registered in a register;
- (h) "regulation" means a regulation made under this Act;
- (i) "State Veterinary Council" means a Veterinary Council established under section 32 and includes a Joint State Veterinary Council established in accordance with an agreement under section 33;
- (j) "veterinary institution" means any University or other institution within or without India which grants degrees, diplomas or licences in veterinary science and animal husbandry;
- (k) "veterinary medicine" means modern scientific veterinary medicine in all its branches and includes veterinary surgery and obstetrics;
- (l) "Vice-President" means the Vice-President of the Council.

CHAPTER II.

INDIAN VETERINARY COUNCIL

Establishment and composition of the Council.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Council to be called the Veterinary Council of India.

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue or be sued.

(3) The Council shall consist of the following members, namely:—

- (a) five members to be nominated by the Central Government from amongst Directors of Animal Husbandry (by whatever name called) of those States to which this Act extends;

- (b) four members to be nominated by the Central Government from amongst the heads of veterinary institutions in the States to which this Act extends;
- (c) one member to be nominated by the Indian Council of Agricultural Research;
- (d) the Animal Husbandry Commissioner, Government of India, *ex officio*;
- (e) one member to be nominated by the Central Government to represent the Ministry of the Central Government dealing with animal husbandry;
- (f) one member to be nominated by the Indian Veterinary Association;
- (g) eleven members to be elected from amongst themselves by persons enrolled in the Indian veterinary practitioners register;
- (h) one member to be nominated by the Central Government from amongst the Presidents of the State Veterinary Councils of those States to which this Act extends;
- (i) one member to be nominated by the Central Government from amongst the Presidents of the State Veterinary Associations of those States to which this Act extends;
- (j) Secretary, Veterinary Council of India, *ex officio*.

(4) The President and Vice-President shall be elected by the members from amongst themselves in such manner as may be provided by regulations.

(5) Whenever there is a vacancy in the office of the President, the Vice-President shall discharge the functions of the President.

(6) The names of persons nominated or elected as members shall be notified by the Central Government in the Official Gazette.

(7) A person shall not be qualified for nomination or election to the Council unless he holds a recognised veterinary qualification.

4. (1) An election under clause (g) of sub-section (3) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf and any rule so made may provide that pending the preparation of the Indian veterinary practitioners register in accordance with the provisions of this Act, the members referred to in that clause may be nominated by the Central Government instead of being elected as provided therein.

(2) Where any dispute arises regarding any election to the Council, it shall be referred to the Central Government for its decision which shall be final.

5. (1) The President or Vice-President shall hold office for a term not exceeding three years and not extending beyond the expiry of his term as a member.

(2) Subject to the provisions of this section, a member, other than an *ex officio* member, shall hold office for a term of three years from the date of his election or nomination to the Council or until his successor shall have been duly elected or nominated, whichever is longer.

Mode of
election
of mem-
bers.

Term of
office of
Presi-
dent,
Vice-Presi-
dent and
members
of

(3) Members of the Council shall be eligible for re-nomination or re-election.

(4) Where the term of three years is about to expire in respect of any member, a successor may be nominated or elected at any time within three months before the said term expires, but, he shall not assume office until the said term has expired.

**Cessation
of mem-
bership.**

6. (1) A member shall be deemed to have vacated his office—

(a) if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive meetings of the Council;

(b) if he ceases to hold the post from which he has been nominated;

(c) in the case of a member elected under clause (g) of sub-section (3) of section 3, if he ceases to be a person enrolled in the register;

(d) if he has been convicted of an offence involving moral turpitude and punishable with imprisonment;

(e) if he is an undischarged insolvent;

(f) if he is of unsound mind and stands so declared by a competent court.

(2) On the occurrence of a vacancy referred to in sub-section (1), the President shall forthwith report the fact of such vacancy to the Central Government and thereafter that Government may, subject to the proviso to section 7, take necessary steps to fill such vacancy.

**Casual
vacan-
cies.**

7. A casual vacancy in the Council shall be filled by nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected:

Provided that no such casual vacancy occurring within three months of the date of expiry of the normal term of office of a nominated or an elected member need be filled under this section.

**Résigna-
tion.**

8. (1) The President or Vice-President may at any time resign his office by notice in writing addressed to the Council and delivered to the Secretary and the resignation shall take effect from the date on which it is accepted by the Council or on the expiry of ninety days from the date of receipt of the resignation by the Secretary, whichever is earlier.

(2) A member may at any time resign his office by notice in writing addressed to the President and every such resignation shall take effect from the date on which it is accepted by the President or on the expiry of ninety days from the date of receipt of the resignation by the President, whichever is earlier.

**Meetings
of the
Council.**

9. (1) The Council shall meet at least twice in a year at such time and place as may be appointed by the Council.

(2) The quorum necessary for the transaction of business at a meeting of the Council shall be nine.

(3) The President when present shall preside at every meeting of the Council and in his absence the Vice-President and in the absence of both any other member elected by the members present from amongst themselves shall preside at such meeting.

(4) Save as otherwise provided in this Act, all questions which come up before any meeting of the Council shall be decided by a majority of the members present and voting.

(5) In the case of an equality of votes, the President shall have a casting vote.

(6) Subject to the provisions of sub-sections (1) to (5), the Council shall observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations.

10. No act or proceeding of the Council shall be invalid by reason only of the existence of a vacancy in the Council or on account of any defect or irregularity in its constitution.

Vacancies in the Council not to invalidate acts, etc.

11. (1) The Council may, with the previous sanction of the Central Government, appoint a Secretary (who shall also act as Treasurer unless the Council appoints any other person as Treasurer) and may appoint such other officers and employees as it may deem necessary to carry out the purposes of this Act.

Appointment of Secretary and other officers or servants.

(2) The terms and conditions of service of the Secretary, other officers and employees appointed by the Council shall be such as may be provided by regulations.

(3) The Secretary, officers and other employees of the Council shall be deemed to the public servants within the meaning of section 21 of the Indian Penal Code.

(4) All orders and decisions and other instruments of the Council shall be authenticated by the signature of the Secretary or any other officer of the Council duly authorised by it in this behalf.

12. (1) The Council shall appoint from among its members an Executive Committee and may constitute other Committees for such general or specific purposes as the Council considers necessary and may co-opt any person or persons specially qualified to advise on any matter to any Committee other than the Executive Committee.

Executive Committee and other Committees.

(2) A Committee constituted under this section shall meet at such time and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations.

13. The President and other members and the members of the Committees (other than the members of the Council) shall be paid such fees and allowances for attending the meetings of the Council and the Committees as may be provided by regulations.

Fees and allowances.

14. (1) The Council shall furnish such reports, copies of its minutes, abstract of its accounts and other information to the Central Government as that Government may require.

Information to be furnished by the

Council
and pub-
lication
thereof.

Recog-
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by veteri-
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India.

Recog-
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countries
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there is a
scheme of
recipro-
city.

Special
provi-
sions in
certain
cases for
recog-
nition of
veteri-
nary

(2) The Central Government may publish in such manner as it may think fit any report, copy, abstract or other information furnished to it under this section.

15. (1) The veterinary qualifications granted by any veterinary institution in India which are included in the First Schedule shall be recognised veterinary qualifications for the purposes of this Act.

(2) Any veterinary institution in India which grants a veterinary qualification not included in the First Schedule may apply to the Central Government to have such qualification recognised and the Central Government, after consulting the Council, may, by notification in the Official Gazette, amend the First Schedule so as to include such qualification therein and any such notification may also direct that an entry shall be made in the last column of the First Schedule against such veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted after a specified date.

16. (1) The veterinary qualifications granted by veterinary institutions outside India which are included in the Second Schedule shall be recognised veterinary qualifications for the purposes of this Act.

(2) The Council may enter into negotiations with the authority in any country outside India which by the law of such country is entrusted with the maintenance of a register of veterinary practitioners, for the setting of a scheme of reciprocity for the recognition of veterinary qualifications, and in pursuance of any such scheme, the Central Government may, by notification in the Official Gazette, amend the Second Schedule so as to include therein the veterinary qualification which the Council has decided should be recognised, and any such notification may also direct that an entry shall be made in the last column of the Second Schedule against such veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted after a specified date.

(3) The Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Second Schedule by directing that an entry be made therein in respect of any veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted before a specified date.

(4) Where the Council has refused to recommend any veterinary qualification which has been proposed for recognition by any authority referred to in sub-section (2) and the authority applies to the Central Government in this behalf, the Central Government, after considering such application and after obtaining from the Council a report, if any, as to the reasons for any such refusal, may, by notification in the Official Gazette, amend the Second Schedule so as to include such qualification therein and the provisions of sub-section (2) shall apply to such notification.

17. (1) The Central Government, after consultation with the Council, may, by notification in the Official Gazette, direct that the veterinary qualifications granted by veterinary institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of veterinary qualifications is not in force shall be recognised veterinary qualification for the purposes of this Act or shall be so only when granted after a specified date:

Provided that veterinary practice by persons possessing such qualifications—

(a) shall be permitted only if such persons are enrolled as veterinary practitioners in accordance with the law regulating the registration of veterinary practitioners for the time being in force in that country;

(b) shall be limited to the institution to which they are attached for the time being for the purpose of teaching, research work, charitable work; and

(c) shall be limited to the period specified in this behalf by the Central Government by general or special order.

(2) In respect of any such veterinary qualification, the Central Government, after consultation with the Council, may, by notification in the Official Gazette, direct that it shall be a recognised veterinary qualification only when granted before a specified date.

18. Every veterinary institution in a State which grants a recognised veterinary qualification shall furnish such information as the Council may from time to time require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred and generally as to the requisites for obtaining such qualification.

19. (1) A Committee constituted under section 12 may, subject to regulations, if any, made by the Council, appoint such number of veterinary inspectors as it may deem requisite to inspect any veterinary institution or any college or other institution where veterinary education is given or to attend any examination held by any veterinary institution for the purpose of recommending to the Central Government recognition of veterinary qualification granted by that veterinary institution.

(2) The veterinary inspectors shall not interfere with the conduct of any training or examination, but shall report to the Committee on the adequacy of the standards of veterinary education including staff, equipment, accommodation, training and other facilities prescribed by regulations for giving veterinary education or on the sufficiency of every examination which they attend.

(3) The Committee shall forward a copy of any such report to the veterinary institution concerned and shall also forward a copy with remarks, if any, of the said institution thereon, to the Central Government.

20. (1) The Council may appoint such number of visitors as it may deem requisite to inspect any veterinary institution or any college or other institution where veterinary education is given or to attend any examination held by any veterinary institution for the purpose of granting any recognised veterinary qualification.

qualifications granted by veterinary institutions in countries with which there is no scheme of reciprocity.

Power to re-quire information as to courses of study and examinations.

Inspection of veterinary institutions and examinations.

Appointment of visitors.

(2) Any person, whether he is a member or not, may be appointed as a visitor under this section, but a person who is appointed as an inspector under section 19 for any inspection or examination shall not be appointed as a visitor for the same inspection or examination.

(3) The visitors shall not interfere with the conduct of any training or examination, but shall report to the President on the adequacy of the standards of veterinary education including staff, equipment, accommodation, training and other facilities prescribed by regulations for giving veterinary education or on the sufficiency of every examination which they attend.

(4) The report of a visitor shall be treated as confidential unless in any particular case the President otherwise directs:

Provided that if the Central Government requires a copy of the report of the visitor, the Council shall furnish the same.

**Withdrawal
of recogni-
tion.**

21. (1) When upon report by the Committee or the visitor, it appears to the Council—

(a) that the courses of study and examinations to be undergone in, or the proficiency required from candidates at any examination held by, any veterinary institution, are not in conformity with the regulations made under this Act or fall short of the standards required thereby, or

(b) that the staff, equipment, accommodation, training and other facilities for instruction and training provided in such veterinary institution or in any college or other institution affiliated to it do not conform to the standards prescribed by the Council,

the Council shall make a representation to that effect to the Central Government.

(2) After considering such representation, the Central Government may send it to the State Government of the State in which the veterinary institution is situated and the State Government shall forward it along with such remarks as it may choose to make to the veterinary institution, with an intimation of the period within which that institution may submit its explanation to the State Government.

(3) On receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the State Government shall make its recommendation to the Central Government.

(4) The Central Government, after making such inquiry, if any, as it may deem fit, may, by notification in the Official Gazette, direct that an entry shall be made in the appropriate Schedule against the said veterinary qualification declaring that it shall be a recognised veterinary qualification only when granted before a specified date or that the said veterinary qualification if granted to students of a specified college or institution affiliated to any veterinary institution shall be a recognised veterinary qualification only when granted before a specified date or, as the case may be, that the said veterinary qualification shall be a recognised veterinary qualification in relation to a specified college or

institution affiliated to any veterinary institution only when granted after a specified date:

Provided that before issuing such notification the Central Government may consult the Indian Council of Agricultural Research.

22. (1) The Council may, by regulations, specify the minimum standards of veterinary education required for granting recognised veterinary qualifications by veterinary institutions in those States to which this Act extends.

(2) Copies of the draft regulations and of all subsequent amendments thereof shall be furnished by the Council to the State Government concerned and the Council shall, before submitting such regulations or any amendments thereof, as the case may be, to the Central Government for approval, take into consideration the comments of the State Government received within three months from the furnishing of the copies as aforesaid.

(3) The Central Government may, before approving such regulations or any amendments thereof, consult the Indian Council of Agricultural Research.

(4) The Committee constituted under section 12 shall from time to time report to the Council on the efficacy of the regulations and may recommend to the Council such amendments thereof as it may think fit.

Minimum standards of veterinary education.

Indian veterinary practitioners register.

CHAPTER III

INDIAN VETERINARY PRACTITIONERS REGISTER

23. (1) The Council shall, as soon as may be after the commencement of this Act, cause to be maintained in such form and in such manner as may be provided by regulations a register of veterinary practitioners to be known as the Indian veterinary practitioners register which shall contain the names of all persons who possess the recognised veterinary qualifications and who are for the time being enrolled on a State veterinary register of the State to which this Act extends.

(2) It shall be the duty of the Secretary of the Council to keep the Indian veterinary practitioners register in accordance with the provisions of this Act and of any orders made by the Council, and from time to time to revise the register and publish it in the Gazette of India or in such other manner as may be provided by regulations.

1 of 1872.

(3) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872, and may be proved by a copy published in the Gazette of India.

(4) Each State Veterinary Council shall furnish to the Council six printed copies of the State veterinary register as soon as may be after the 1st day of April of each year and each State Veterinary Council shall inform the Council without delay of all additions to, and other amendments in, the State veterinary register made from time to time.

24. The Secretary of the Council may, on receipt of the report of registration of a person in a State veterinary register or on an application made in such form and in such manner, as may be provided by regulations, by any such person, enter his name in the Indian veterinary practitioners register:

Provided that the Secretary is satisfied that the person concerned possesses a recognised veterinary qualification.

Registration in the Indian veterinary practitioners register.

Issue of certificate of registration.

25. (1) Any person whose name has been entered in the Indian veterinary practitioners register shall, on an application made in this behalf in such form and in such manner and on payment of such fees, not exceeding fifteen rupees, as may be provided by regulations, be entitled to a certificate of registration.

(2) On receipt of an application under sub-section (1), the Council shall grant to the applicant a certificate of registration in such form as may be provided by regulations:

Provided that on the removal of his name from a register, such certificate shall cease to be valid.

(3) Where it is shown to the satisfaction of the Secretary of the Council that a certificate of registration has been lost or destroyed, the Secretary may, on payment of such fees, not exceeding ten rupees, as may be specified by regulations, issue a duplicate certificate in such form as may be specified in the regulations.

Registration of additional qualifications.

26. (1) If any person whose name is entered in the Indian veterinary practitioners register obtains any post-graduate degree or diploma in veterinary science in addition to his recognised veterinary qualification, he shall, on an application made in this behalf in such form and in such manner and on payment of such fees, not exceeding fifteen rupees, as may be provided by regulations, be entitled to have an entry stating such degree or diploma made against his name in such register in addition to any entry previously made.

(2) The entries in respect of any such person in a State veterinary register shall be altered in accordance with the alterations made in the Indian veterinary practitioners register.

Removal of names from the Indian veterinary practitioners register.

27. If the name of any person enrolled on a State veterinary register is removed therefrom in pursuance of any power conferred under this Act, the Council shall direct the removal of the name of such person from the Indian veterinary practitioners register.

Person enrolled on Indian veterinary practitioners register to notify change of place of residence or practice.

28. Every person registered in the Indian veterinary practitioners register shall notify any transfer of the place of his residence or practice to the Council and the State Veterinary Council within ninety days of such transfer, failing which his right to participate in the election of members of the Council or a State Veterinary Council shall be liable to be forfeited by order of the Central Government either permanently or for such period as may be specified therein.

CHAPTER IV

PRIVILEGES OF REGISTERED VETERINARY PRACTITIONERS

Privileges of persons.

29. Subject to the conditions and restrictions laid down in this Act, every person whose name is for the time being borne on the Indian

veterinary practitioners register shall be entitled according to his qualifications to practise as a veterinary practitioner and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments and other appliances or any fees to which he may be entitled.

who are enrolled on the Indian veterinary practitioners register.

30. No person, other than a registered veterinary practitioner, shall—

(a) hold office as veterinary physician or surgeon or any other like office (by whatever name called) in Government or in any institution maintained by a local or other authority;

(b) practise veterinary medicine in any State:

Provided that the State Government may, by order, permit a person holding a diploma or certificate of veterinary supervisor, stockman or stock assistant (by whatever name called) issued by the Directorate of Animal Husbandry (by whatever name called) of any State or any veterinary institution in India, to render, under the supervision and direction of a registered veterinary practitioner, minor veterinary services.

Explanation.—“Minor veterinary services” means the rendering of preliminary veterinary aid, like, vaccination, castration, and dressing of wounds, and such other types of preliminary aid or the treatment of such ailments as the State Government may, by notification in the Official Gazette, specify in this behalf;

(c) be entitled to sign or authenticate a veterinary health certificate or any other certificate required by any law to be signed or authenticated by a duly qualified veterinary practitioner;

(d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872, on any matter relating to veterinary medicine.

Right of persons who are enrolled on the Indian veterinary practitioners register.

1 of 1872.

CHAPTER V

DISCIPLINE

31. (1) The Council may, by regulations, specify standards of professional conduct and etiquette and a code of ethics for veterinary practitioners.

Professional conduct.

(2) Regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provisions shall have effect notwithstanding anything contained in any other law for the time being in force.

CHAPTER VI

STATE VETERINARY COUNCILS

32. (1) Except where a Joint State Veterinary Council is established in accordance with an agreement made under section 33, the State Government shall establish a State Veterinary Council consisting of the following members, namely:—

Establishment and composition of State Veterinary Councils.

(a) four members elected from among themselves by veterinary practitioners registered in the State veterinary register;

- (b) the heads of veterinary institutions, if any, in the State, *ex officio*;
- (c) three members nominated by the State Government;
- (d) the Director of Veterinary Services of the State (by whatever name called), *ex officio*;
- (e) one member to be nominated by the State Veterinary Association, if any;
- (f) Registrar of the State Veterinary Council, *ex officio*.

(2) The names of persons nominated or elected as members shall be notified by the State Government in the Official Gazette.

(3) A person shall not be qualified for nomination or election as a member of the State Veterinary Council unless he holds a recognised veterinary qualification.

Inter-State agreements.

33. (1) Two or more State Governments may enter into an agreement to be in force for such period and to be subject to renewal for further periods, if any, as may be specified in the agreement to provide—

(a) for the establishment of a Joint State Veterinary Council for all participating States; or

(b) for the State Veterinary Council of one State to serve the needs of the other participating States.

(2) In addition to such matters as are in this Act specified, an agreement under this section may—

(a) provide for the apportionment between the participating States of the expenditure in connection with the State Veterinary Council or Joint State Veterinary Council;

(b) determine which of the participating State Governments shall exercise the several functions of the State Government under this Act and the references in this Act to the State Government shall be construed accordingly;

(c) provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions not inconsistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published in the Official Gazettes of the participating States.

Composition of Joint State Veterinary Councils.

34. (1) A Joint State Veterinary Council shall consist of the following members, namely:—

(a) two members elected from among themselves by veterinary practitioners registered in the register of each of the participating States;

(b) the heads of veterinary institutions, if any, in the participating States, *ex officio*;

(c) two members nominated by each participating State Government;

(d) the Director of Veterinary Services of each of the participating States, by whatever name called, *ex officio*;

(e) one nominee of the State Veterinary Associations, if any, of each of the participating States;

(f) Registrar of the Joint State Veterinary Council, *ex officio*.

(2) The names of the persons nominated or elected as members shall be notified by the State Governments in the Official Gazettes of the States.

(3) A person shall not be qualified for nomination or election as a member of the Joint State Veterinary Council unless he holds a recognised veterinary qualification.

35. Every State Veterinary Council shall be a body corporate by such name as may be notified by the State Government in the Official Gazette or, in the case of a Joint State Veterinary Council, as may be determined in the agreement, having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and shall by the said name sue or be sued.

36. The President of the State Veterinary Council shall be elected by the members of that Council from amongst themselves in such manner as may be prescribed.

President.

37. The election under this Chapter shall be conducted in the prescribed manner and where any dispute arises regarding any such election, it shall be referred to the State Government for its decision.

Mode of elections.

38. (1) Subject to the provisions of this section, a member of the State Veterinary Council, other than an *ex officio* member, shall hold office for a term of three years from the date of his election or nomination to the State Veterinary Council or until his successor has been duly elected or nominated, whichever is longer:

Terms of office and casual vacancies.

Provided that a member of the State Veterinary Council nominated under clause (c) of sub-section (1) of section 32 or clause (c) of sub-section (1) of section 34, shall hold office during the pleasure of the authority nominating him.

(2) Members of the State Veterinary Council shall be eligible for re-election or re-nomination, as the case may be.

(3) An elected or nominated member of the State Veterinary Council shall be deemed to have vacated his office—

(a) if he is absent without excuse, sufficient in the opinion of the State Veterinary Council, from three consecutive meetings of the State Veterinary Council;

(b) if he ceases to hold the office from which he has been nominated;

(c) in the case of a member whose name is required to be included in any State veterinary register, if his name is removed from the register;

(d) if he has been convicted of an offence involving moral turpitude and punishable with imprisonment;

(e) if he is an undischarged insolvent;

(f) if he is of unsound mind and stands so declared by a competent court.

(4) No act done by the State Veterinary Council shall be called in question on the ground merely of the existence of any vacancy, or defect, in the establishment of, the State Veterinary Council.

(5) A casual vacancy in the State Veterinary Council shall be filled by fresh election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(6) The State Veterinary Council shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed.

Resignation.

39. (1) The President of the State Veterinary Council may at any time resign his office by notice in writing addressed to the State Veterinary Council and delivered to the Registrar and the resignation shall take effect from the date on which it is accepted by that Council or on the expiry of ninety days from the date of receipt of the resignation by the Registrar, whichever is earlier.

(2) A member of the State Veterinary Council may at any time resign his office by notice in writing addressed to the President of the State Veterinary Council and every such resignation shall take effect from the date on which it is accepted by the President or on the expiry of ninety days from the date of receipt of the resignation by the President, whichever is earlier.

**Executive
and other
Committees.**

40. Subject to such conditions and restrictions as may be prescribed, the State Veterinary Council may constitute an Executive Committee and other Committees for exercising any power or discharging any duty of the State Veterinary Council or for inquiring into, reporting with respect to, or advising on, any matter which the State Veterinary Council may refer to them.

**Fees and
allowances.**

41. The President and other members of the State Veterinary Council and the members of the Committees (other than the members of the State Veterinary Council) shall be paid such fees and allowances for attending the meetings of the State Veterinary Council and the Committees as may be prescribed.

**Appointment
of
Registrar
and other
officers
or ser-
vants.**

42. (1) The State Veterinary Council may, with the previous sanction of the State Government, appoint a Registrar who shall also act as Treasurer unless the State Veterinary Council appoints any person as Treasurer and may appoint such other officers and employees as it may deem necessary to carry out the purposes of this Act.

(2) The terms and conditions of service of the Registrar, and of the other officers and employees appointed by the State Veterinary Council shall be such as may be prescribed.

(3) The Registrar and other officers and employees of the State Veterinary Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(4) All orders and decisions and other instruments of the State Veterinary Council shall be authenticated by the signature of the Registrar or any other officer of the State Veterinary Council duly authorised by it in this behalf.

(5) Notwithstanding anything contained in sub-section (1), for the first two years from the first constitution of the State Veterinary Council the Registrar of the State Veterinary Council shall be a person appointed by the State Government, who shall hold office during the pleasure of the State Government.

43. (1) The State Veterinary Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee and abstract of its accounts to the State Government as the State Government may from time to time require and shall forward to the Council copies of all material so furnished to the State Government.

(2) The State Government may publish in such manner as it thinks fit any report, copy or abstract furnished to it under this section.

CHAPTER VII

REGISTRATION

44. (1) The State Government shall as soon as may be cause to be prepared in the manner hereinafter provided a register of veterinary practitioners to be known as the State veterinary register for the State.

Information to be furnished by State Veterinary Council.

Preparation and maintenance of State veterinary practitioners register.

(2) The State Veterinary Council shall on its establishment assume the duty of maintaining the State veterinary register in accordance with the provisions of this Act.

(3) The State veterinary register shall contain the names of the persons possessing the recognised veterinary qualifications.

(4) The State veterinary register shall include the following particulars, namely:—

(a) the full name, nationality and residential address of the registered person;

(b) the date of his admission in the State veterinary register;

(c) his qualification for registration and the date on which he obtained such qualification and authority which conferred it;

(d) his professional address; and

(e) such further particulars as may be prescribed.

First preparation of register.

45. (1) For the purpose of first preparing the State veterinary register, the State Government shall, by notification in the Official Gazette, constitute a Registration Tribunal consisting of three persons holding recognised veterinary qualifications and shall also appoint a Registrar who shall act as Secretary of the Tribunal.

(2) The State Government shall, by the same or a like notification, appoint a date on or before which application for registration, which shall be accompanied by the prescribed fee, not exceeding twenty-five rupees, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and, if it is satisfied that the applicant is qualified for registration under section 46, shall direct the entry of the name of the applicant on the register.

(4) The register so prepared shall thereafter be published in such manner as the State Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published may, within sixty days from the date of such publication, appeal to an authority appointed by the State Government in this behalf by notification in the Official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.

(6) Upon the establishment of the State Veterinary Council, the register shall be given into its custody, and the State Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the State Veterinary Council.

Qualifications for entry on preparation of register.

46. A person shall be entitled, on payment of the prescribed fee not exceeding twenty-five rupees, to have his name entered on the State veterinary register if he resides in the State and if he holds a recognised veterinary qualification.

Scrutiny of applications for registration.

47. (1) After the date appointed for the receipt of applications for registration under sub-section (2) of section 45, all applications for registration shall be addressed to the Registrar of the State Veterinary Council and shall be accompanied by the prescribed fee not exceeding twenty-five rupees.

(2) If upon such application the Registrar of the State Veterinary Council is of the opinion that the applicant is entitled to have his name entered on the State veterinary register, he shall enter thereon the name of the applicant:

Provided that no person, whose name has under the provisions of this Act been removed from the State veterinary register of any State, shall be entitled to have his name entered on the State veterinary register of another State except with the approval of the State Veterinary Council from whose register his name was removed.

(3) Any person whose application for registration is rejected by the Registrar of the State Veterinary Council may, within three months from the date of such rejection, appeal to the State Veterinary Council.

(4) A person aggrieved by the decision of the State Veterinary Council under sub-section (3) may, within sixty days from the communication to him of such decision, appeal to the State Government.

(5) Upon entry in the State veterinary register of a name under this section, the Registrar of the State Veterinary Council shall issue a certificate of registration in the prescribed form.

48. (1) The State Government may, by notification in the Official Gazette, direct that for the retention of a name in the State veterinary register, there shall be paid in every five years to the State Veterinary Council, such renewal fee, not exceeding fifteen rupees, as may be prescribed and where such direction has been made, such renewal fee shall be due to be paid before the 1st day of April of the year to which it relates.

Renewal fees.

(2) Where a renewal fee is not paid within the said period, the Registrar of the State Veterinary Council shall remove the name of the defaulter from the State veterinary register:

Provided that a name so removed may be restored to the said register on payment of renewal fee in such manner as may be prescribed.

(3) On payment of the renewal fee, the Registrar of the State Veterinary Council shall issue a certificate of renewal and such certificate shall be proof of renewal of registration.

49. (1) Subject to the provisions of this section, the State Veterinary Council may order that the name of any person shall be removed from the State veterinary register where it is satisfied after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make—

Removal from the register.

(a) that his name has been entered in the State veterinary register by error or on account of mis-representation or suppression of a material fact, or

(b) that he has been convicted of an offence involving moral turpitude and punishable with imprisonment or has been guilty of any infamous conduct in any professional respect or has violated the standards of professional conduct and etiquette or the code of ethics which in the opinion of the State Veterinary Council renders him unfit to be kept in the said register.

(2) An order under sub-section (1) may direct that any person whose name is ordered to be removed from the State veterinary register shall be ineligible for registration under this Act, either permanently or for such period of years as may be specified.

(3) An order under sub-section (1) shall not take effect until the expiry of three months from the date thereof or until an appeal, if any, on such order is finally disposed of, whichever date is later.

(4) A person aggrieved by an order under sub-section (1) may, within sixty days from the communication to him of such order, appeal to the Council.

(5) A person aggrieved by the decision of the Council under sub-section (4) may, within sixty days from the communication to him of such decision, appeal to the Central Government.

(6) A person whose name has been removed from the register under this section or under sub-section (2) of section 48 shall forthwith surrender his certificate of registration and certificate of renewal, if any, to the Registrar of the State Veterinary Council and the name so removed shall be published in the Official Gazette.

(7) A person whose name has been removed from the State veterinary register under this section or sub-section (2) of section 48 shall not be entitled to have his name registered in the State veterinary register or in any other State veterinary register, except with the approval of the State Veterinary Council from whose register his name has been removed.

Restora-
tion to
State
veteri-
nary
register.

50. The State Veterinary Council may, at any time for reasons appearing to it sufficient and subject to approval of the Council, order that upon payment of the prescribed fee not exceeding twenty-five rupees, the name of a person removed from a State veterinary register shall be restored thereto.

Printing
of
State
veteri-
nary
register.

51. As soon as may be after the 1st day of April each year, the Registrar of the State Veterinary Council shall cause to be printed copies of the State veterinary register as it stood on the said date and such copies shall be made available to persons applying therefor on payment of the prescribed charge not exceeding ten rupees and shall be evidence that on the said date the persons whose names are entered therein were registered veterinary practitioners.

Transfer
of regis-
tration.

52. Where a registered veterinary practitioner of one State is practising veterinary medicine in another State, he may, on payment of prescribed fee which shall not exceed the renewal fee for registration in such other State, make an application in the prescribed form to the Council for the transfer of his name from the State veterinary register of the State where he is registered to the State veterinary register of the State in which he is practising veterinary medicine, and on receipt of any such application, the Council shall, notwithstanding anything contained elsewhere in this Act, direct that the name of such person be removed from the first-mentioned State veterinary register and entered in the State veterinary register of the second-mentioned State and the State Veterinary Councils concerned shall comply with such direction:

Provided that such a person shall be required to produce a certificate to the effect that all dues in respect of his registration in the former State have been paid:

CHAPTER VIII

MISCELLANEOUS

Provided further that where any such application for transfer is made by a veterinary practitioner against whom any disciplinary proceeding is pending or where for any other reason it appears to the Council that the application for transfer has not been made *bona fide* and the transfer should not be made, the Council may, after giving the veterinary practitioner a reasonable opportunity of making a representation in this behalf, reject the application.

53. No order refusing to enter a name in a register or removing a name from a register shall be called in question in any court.

54. Where it is shown to the satisfaction of the Registrar of the State Veterinary Council that a certificate of registration or a certificate of renewal has been lost or destroyed, the Registrar may, on payment of the prescribed fee, not exceeding ten rupees, issue a duplicate certificate in the prescribed form.

55. If any person whose name is not for the time being entered in a register falsely represents that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

56. If any person,—

(a) not being a person registered in a register, takes or uses the description of a veterinary practitioner, or

(b) not possessing a recognised veterinary qualification, uses a degree or a diploma or a licence or an abbreviation indicating or implying such qualification,

he shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding five thousand rupees or with both.

57. (1) After the expiry of one year from the date appointed under sub-section (2) of section 45, no person, other than a registered veterinary practitioner or a person permitted by the State Government under the proviso to clause (b) of section 30 shall practise veterinary medicine or render minor veterinary services, as the case may be, in that State.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding five thousand rupees or with both.

58. If any person whose name has been removed from a register fails without sufficient cause forthwith to surrender his certificate of registration or certificate of renewal, or both, he shall be punishable with fine which may extend to five hundred rupees and in case of a continuing offence with an additional fine which may extend to ten rupees per day after the first day during which the offence continues.

Bar of jurisdiction.

Issue of duplicate certificates.

Penalty for falsely claiming to be registered.

Misuse of titles.

Practice by unregistered persons.

Failure to surrender certificate of registration.

Cognizance of offence.

Bar of suit and other legal proceedings.

Payment of part of fees to Council.

Accounts and audit.

Appointment of Commission of Inquiry.

59. No court shall take cognizance of any offence punishable under this Act except upon complaint made by order of the State Government or State Veterinary Council.

60. No suit or other legal proceedings shall lie against the Central Government or the State Government or the Council or a State Veterinary Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act, or of any rules, regulations or orders made thereunder.

61. The State Veterinary Council shall, before the end of June in each year, pay to the Council a sum equivalent to one-fourth of the total fees realised by the State Veterinary Council under this Act during the period of twelve months ending on the 31st day of March of that year.

62. (1) The Council shall maintain appropriate accounts and other relevant records and prepare an annual statement of accounts including the balance sheet, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Council shall be audited annually by the Comptroller and Auditor-General of India or any person appointed by him in this behalf and any expenditure incurred by him or any person so appointed in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers and to inspect the office of the Council.

(4) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

(5) A copy of the accounts of the Council as so certified together with the audit report thereon shall be forwarded simultaneously to the Council.

63. (1) Whenever it appears to the Central Government that the Council is not complying with any of the provisions of this Act, the Central Government may appoint a Commission of Inquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being the Judge of a High Court and one by the Council and refer to it the matter on which the inquiry is to be made.

(2) The Commission shall proceed to inquire in a summary manner and report to the Central Government on the matters referred to it together with such remedies, if any, as the Commission may like to recommend.

(3) The Central Government may accept the report or remit the same to the Commission for modification or reconsideration.

(4) After the report is finally accepted, the Central Government may order the Council to adopt the remedies so recommended within such time as may be specified in the order and if the Council fails to comply within the time so specified, the Central Government may pass such order or take such action as may be necessary to give effect to the recommendations of the Commission.

(5) Whenever it appears to the State Government that the State Veterinary Council is not complying with any of the provisions of this Act, the State Government may likewise appoint a similar Commission of inquiry in respect of the State Veterinary Council to make inquiry in like manner and pass such orders or take such action as specified in sub-sections (3) and (4).

64. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of Chapters II, III, IV and V.

(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.

Power of
Central
Govern-
ment to
make
rules.

65. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of Chapters VI, VII and VIII.

(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:—

Power of
State
Govern-
ment to
make
rules.

(a) the manner in which the President of the State Veterinary Council shall be elected under section 36;

(b) the manner in which election under Chapter VI shall be conducted;

(c) the procedure to be observed by the State Veterinary Council at its meetings under sub-section (6) of section 38;

(d) the conditions and restrictions with respect to the constitution of Executive Committee and other Committees under section 40;

(e) the fees and allowances for attending the meetings of the State Veterinary Council and the Committees under section 41;

(f) the terms and conditions of appointment of the Registrar, other officers and employees of the State Veterinary Council under sub-section (2) of section 42;

- (g) the particulars to be included in the State veterinary register under clause (e) of sub-section (4) of section 44;
- (h) the fee which shall be accompanied by an application for registration under sub-section (2) of section 45 and sub-section (1) of section 47;
- (i) the form of certificate of registration under sub-section (5) of section 45 and sub-section (5) of section 47;
- (j) the fee payable under section 46, section 50, section 52 and section 54;
- (k) the renewal fee under sub-section (1) of section 48;
- (l) the manner of payment of renewal fee under the proviso to sub-section (2) of section 48;
- (m) the charge for supplying printed copies of the State veterinary register under section 51;
- (n) the form of duplicate certificate under section 54;
- (o) any other matter which is to be or may be prescribed under Chapters VI, VII and VIII.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

**Power
to make
regula-
tions.**

66. (1) The Council may, with the previous approval of the Central Government, make regulations, not inconsistent with the provisions of this Act and the rules made under section 64, to carry out the purposes of Chapters II, III, IV and V.

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

- (a) the manner in which the President and Vice-President shall be elected under sub-section (4) of section 3;
- (b) the procedure to be observed respectively by the Council and the Committee at their meeting under sub-section (6) of section 9 and sub-section (2) of section 12;
- (c) the terms and conditions of appointment of the Secretary, other officers and employees of the Council under sub-section (2) of section 11;
- (d) the fees and allowances for attending the meetings of the Council and the Committees under section 13;
- (e) the form and manner in which the Indian veterinary practitioners register shall be maintained under sub-section (1) of section 23;

- (f) the manner of keeping the Indian veterinary practitioners register under sub-section (2) of section 23;
- (g) the form and manner in which an application may be made under section 24;
- (h) the form of application and the fee payable under sub-section (1) of section 25;
- (i) the form of certificate of registration under sub-section (2) of section 25;
- (j) the fee payable under sub-section (3) of section 25;
- (k) the form of duplicate certificate under sub-section (3) of section 25;
- (l) the form and manner in which an application may be made and the fee payable under sub-section (1) of section 26;
- (m) the standards of professional conduct and etiquette and code of ethics to be observed by veterinary practitioners under sub-section (1) of section 31;
- (n) any other matter for which under this Act provision may be made by regulations.

(3) Every regulation shall, as soon as may be after it is made by the Council, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

67. As from the commencement of this Act in any State, every other Act relating to any matter contained in this Act and in force in that State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed and the provisions of section 6 of the General Clauses Act, 1897, shall apply to such repeal as if such other Act were a Central Act.

THE FIRST SCHEDULE

[See section 2(e) and section 15]

RECOGNISED VETERINARY QUALIFICATIONS GRANTED BY UNIVERSITIES OR VETERINARY INSTITUTIONS IN INDIA

University or veterinary institution 1	Recognised veterinary qualification 2	Abbreviation registration 3
DEGREES		
1. Agra University	Bachelor of Veterinary Science and Animal Husbandry	B.V.Sc. & A.I.
2. Andhra Pradesh Agricultural University	Bachelor of Veterinary Science	B.V. Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.
3. Assam Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.
4. Bidhan Chandra Krishi Viswa Vidyalaya	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.I.
5. University of Bihar	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.
6. University of Bombay	Bachelor of Science (Vety.)	B.Sc. (Vet.)
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.I.
	Bachelor of Veterinary Science	B.V. Sc.
7. University of Calcutta	Bachelor of Veterinary Science	B.V. Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
8. University of Calicut	Bachelor of Veterinary Science	B.V. Sc.
9. Chandra Shekhar Azad University of Agriculture and Technology	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
10. Gauhati University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
11. Govind Ballabh Pant University of Agriculture and Technology	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
12. Gujarat Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. &
13. Haryana Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
	Bachelor of Veterinary Animal Science	B.V. A. Sc.
14. University of Jabalpur	Bachelor of Veterinary Science	B.V. Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
15. Jawaharlal Nehru Krishi Vishwa Vidyalaya	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A
16. Kerala Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. &
	Bachelor of Veterinary Science	B.V. Sc.
17. University of Kerala	Bachelor of Veterinary Science	B.V. Sc.
18. Konkan Krishi Vidyapeeth	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. &
19. University of Madras	Bachelor of Veterinary Science	B.V. Sc.
20. Magadh University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. &
21. Maharashtra Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. &
22. Mahatma Phule Krishi Vidyapeeth	Bachelor of Veterinary Science	B.V. Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. &

University or veterinary institution	Recognised veterinary qualification	Abbreviation for registration
1	2	3
23. Marathwada Krishi Vidyapeeth	Bachelor of Veterinary Science and Animal Husbandry	B.V.Sc. & A.H.
24. University of Mysore	Bachelor of Veterinary Science	B.V.Sc.
25. Nagpur University	Bachelor of Veterinary Science	B.V.Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
	Bachelor of Science (Vcty.)	B.Sc. (Vet.)
26. Orissa University of Agriculture and Technology	Bachelor of Veterinary Science and Animal Husbandry	B.V.Sc. & A.H.
27. Osmania University	Bachelor of Veterinary Science	B.V.Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V.Sc. & A.H.
28. Punjab University Lahore (1942—Aug. 1947)	Bachelor of Veterinary Science	B.V.Sc.
29. East Punjab University, Solan (1948—54)	Bachelor of Veterinary Science	B.V.Sc.
30. Punjab University, Chandigarh 1984—62)	Bachelor of Veterinary Science	B.V.Sc.
	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
31. Punjab Agricultural University	Bachelor of Veterinary Sci3nce and Animal Husbandry	B.V. Sc. & A.H.
32. Punjab Krishi Vidyapeeth	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
33. Rajasthan Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
34. University of Rajasthan	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
35. Rajendra Agricultural University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
36. Ranchi University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Se. & A.H.
37. Sardar Patel University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
38. University of Saugar	Bachelor of Veterinary Science	B.V. Sc.
39. Sri Venkateswara University	Bachelor of Veterinary Science	B.V. Sc.
40. Tamil Nadu Agricultural University	Bachelor of Veterinary Science	B.V. Sc.
41. University of Udaipur	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
42. University of Agricultural Sciences, Hebbal	Bachelor of Veterinary Science	B.V. Sc.
43. Uttar Pradesh Agricultural University, Pantnagar	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
44. Utkal University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
45. Vikram University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.
46. Mohan Lal Sukhadia University	Bachelor of Veterinary Science and Animal Husbandry	B.V. Sc. & A.H.

University or veterinary institution 1	Recognised veterinary qualification 2	Abbreviation for registration 3
DIPLOMAS		
1. Assam Veterinary College	Graduate in Veterinary Science Graduate in Veterinary Science and Animal Husbandry	G.V. Sc. G.V. Sc. & A.H.
2. Bengal Veterinary College	Graduate of Bengal Veterinary College Graduate in Veterinary Science	G.B. V.C. G.V. Sc.
3. Bihar Veterinary College	Graduate of Bihar Veterinary College	G.B.V.C.
4. Bombay Veterinary College	Graduate of Bombay Veterinary College	G.B.V.C.
5. Madras Veterinary College	Graduate of Madras Veterinary College	G.M.V.C.
6. Punjab Veterinary College	Licensed Veterinary Practitioner (Conferred before 15-8-1947)	L.V.P.

THE SECOND SCHEDULE

[See Section 2 (e) and section 16]

RECOGNISED VETERINARY QUALIFICATION GRANTED BY INSTITUTIONS OUTSIDE INDIA

Country and Institution 1	Recognised veterinary qualification 2	Abbreviation for registration 3
UNITED KINGDOM		
1. Royal College of Veterinary Surgeons	Member of the Royal College of Veterinary Surgeons	M.R.C.V.S.
2. University of Bristol	Bachelor of Veterinary Science	B.V. Sc.
3. University of Cambridge	Bachelor of Veterinary Science	B.V. Sc.
4. University of Edinburgh	Bachelor of Veterinary Science	B.V. Sc.
5. University of Glasgow	Bachelor of Veterinary Science	B.V. Sc.
6. University of Liverpool	Bachelor of Veterinary Science	B.V. Sc.
7. University of London	Bachelor of Veterinary Medicine	B. Vet. Med.
REPUBLIC OF IRELAND		
8. University of Dublin	Bachelor of Veterinary Medicine	B.V.M.
9. National University of Ireland	Bachelor of Veterinary Medicine	B.V.M.

THE ESTATE DUTY (AMENDMENT) ACT, 1984

NO. 53 OF 1984

[23rd August, 1984].

An Act further to amend the Estate Duty Act, 1953.

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

- 34 of 1953
1. This Act may be called the Estate Duty (Amendment) Act, 1984. Short title.
 2. In section 5A of the Estate Duty Act, 1953 (hereinafter referred to as the principal Act), after sub-section (2B), the following sub-section shall be inserted, namely:—

“(2C) The amendments made to this Act by sections 3 to 5 of the Estate Duty (Amendment) Act, 1984, shall apply to estate duty in respect of agricultural lands situate in the territories comprised in—
 - (a) the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa and Tamil Nadu and all the Union territories, on the expiration of two months from the date on which the said Act received the assent of the President; and
 - (b) any other States in respect whereof resolutions have been passed by the Legislatures of those States adopting the proposals with respect to such amendments or the said amendments, as the case may be, under clause (1) of article 252 of the Constitution, on the expiration of four months from the date of such adoption.”.

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

“5B. Notwithstanding anything contained in section 5, this Act shall cease to apply to the levy of estate duty in respect of agricultural land.”.

Insertion of new section 5B.
- Act to cease to apply to estate duty in respect of agricultural land.

Amend-
ment of
section
34.

4. In section 34 of the principal Act,—

(a) in sub-section (1),—

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

(ii) clause (b) shall be omitted;

(b) in the *Explanation* below sub-section (2), clause (ii) shall be omitted.

Amend-
ment of
section
85.

5. In section 85 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session 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 LEVY SUGAR PRICE EQUALISATION FUND
(AMENDMENT) ACT, 1984

No. 54 OF 1984

[23rd August, 1984.]

An Act to amend the Levy Sugar Price Equalisation Fund Act, 1976.

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

1. This Act may be called the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984. Short title.

31 of 1976. ~~2. In section 2 of the Levy Sugar Price Equalisation Fund Act, 1976~~ Amend-
ment of
section 2.
~~(hereinafter referred to as the principal Act),—~~

(a) in clause (b), the following Explanation shall be inserted and shall be deemed always to have been inserted, namely:—

~~“Explanation.—For the removal of doubts, it is hereby declared that where in relation to levy sugar of any grade sold by any producer, the producer has realised towards duties of excise with respect to such sugar any amount in excess of the amount payable by way of such duties, such excess shall also be deemed to be excess realisation within the meaning of this clause;”~~

(b) for clause (e), the following clause shall be substituted and shall be deemed always to have been substituted, namely:—

10 of 1955.

“(e) “levy sugar” means the sugar requisitioned by the Central Government under clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955;”

3. In section 3 of the principal Act,—

(a) in sub-section (2), in the opening portion, for the words, brackets and figure “provided in sub-section (4)”, the words, brackets and figure “provided in sub-section (5)” shall be substituted;

(b) in sub-section (3),—

(i) in the opening portion, for the words, brackets and figure “provided in sub-section (4)”, the words, brackets and figure “provided in sub-section (5)” shall be substituted;

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

“Provided that—

(a) the interest due on so much of any amount of any excess realisation made before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984, as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum before the expiry of sixty days from the date of such commencement; and

(b) the interest due on so much of the amount of any excess realisation made on or after the date of such commencement as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum within sixty days from the date on which such amount was realised,

shall be at the rate of fifteen per cent. per annum from the date on which such amount was realised by the producer.”;

(c) sub-section (4) shall be omitted;

(d) in sub-section (5),—

(i) in the opening portion, for the words, brackets and figure “interim order referred to in sub-section (4)”, the words “interim order made by any court, whether before or after the commencement of this Act” shall be substituted;

(ii) in the concluding portion, for the words “or in any court of appeal or revision, credit such amount, to the extent it represents any excess realisation, to the Fund”, the following shall be substituted, namely:—

“credit to the Fund, within sixty days from the date of such final disposal, such amount, to the extent it represents any excess realisation together with interest due thereon at the rate of twelve and a half per cent. per annum from the date on which such amount was realised by him:

Provided that—

(i) the interest due on so much of such amount as was realised before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 and is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum before the expiry of sixty days from the date of such commencement, and

(ii) the interest due on so much of such amount as is realised after such commencement and not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum within sixty days from the date on which such amount was realised,

shall be at the rate of fifteen per cent. per annum from the date on which such amount was realised by the producer.”;

(e) after sub-section (5), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

“(5A) Notwithstanding anything contained in sub-section (5), the interest payable on the amount of any excess realisation required to be credited to the Fund under that sub-section in respect of any period during which such amount was by reason of any order of any court held by the producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, shall be the interest which actually accrued on such amount in respect of such period.”;

(f) after sub-section (5A) as so inserted, the following sub-sections shall be inserted, namely:—

“(5B) Without prejudice to the provisions of sub-section (5), any amount representing the difference between the controlled price and the interim price allowed by the court which—

(a) is held by any producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, or

(b) is under the cover of any guarantee referred to in clause (b) of that sub-section,

shall, as soon as may be after the final disposal of the proceedings of the court aforesaid, be credited, to the extent such amount represents excess realisation together with the interest, if any, which has accrued thereon or been guaranteed in respect thereof, to the Fund by such other person, the court, Government, bank or other authority aforesaid or, as the case may be, by the bank or other person furnishing such guarantee and the amount so credited shall be set off against the amount (including interest) required to be credited by the producer under sub-section (5).

(5C) The provisions of sub-section (5B) shall apply in relation to every amount representing the difference between the controlled price and the interim price allowed by the court which, immediately before the commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984—

(a) is held by any producer with any other person or with any court, Government, bank or other authority mentioned in clause (a) of that sub-section, or

(b) is under the cover of any guarantee mentioned in clause (b) of that sub-section,

notwithstanding that the final disposal of the proceedings of the court aforesaid took place before such commencement and for this purpose the reference in that sub-section to “final disposal of the proceedings of the court” shall be construed as a reference to such commencement.

(5D) Where any amount is credited to the Fund under sub-section (5B), such crediting shall,—

(a) in a case falling under clause (a) of that sub-section, operate as the discharge of the liability in relation to such amount of the person, court, Government, bank or other authority so crediting the amount;

492 Levy Sugar Price Equalisation Fund (Amendment) [Act 54 of 1984]

(b) in a case falling under clause (b) of that sub-section, have effect as if it had been made in accordance with the guarantee given by the bank or other person crediting the amount and for this purpose such guarantee shall be deemed to have provided for such crediting.

Amend.
ment of
section 5.

4. In section 5 of the principal Act, for the words "the producer by whom such amount is credited", the words "the producer concerned" shall be substituted.

Amend.
ment of
section 6.

5. In section 6 of the principal Act,—

(a) in sub-section (1), in the proviso,—

(i) in clause (b), the word "or" shall be inserted at the end and shall be deemed always to have been inserted;

(ii) after clause (b), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

"(c) being a person who is not a wholesale dealer or a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to any other person as part of the price of any product in the manufacture of which such sugar has been used or, as the case may be, to the consumer by whom the price of such sugar was paid.";

(b) in sub-section (3), for the words "excess realisation made from him", the words "excess realisation made from him together with interest (if any) thereon credited to the Fund" shall be substituted and shall be deemed always to have been substituted.

Amend.
ment of
section 11.

6. In section 11 of the principal Act, for the words "any excess realisations made by him or any part thereof, such excess realisations or such part", the words "any excess realisation made by him, or any interest due on such excess realisation or any part of such excess realisation or interest, such excess realisation or such interest or such part" shall be substituted and shall be deemed always to have been substituted.

Amend.
ment of
section 13.

7. In section 13 of the principal Act, in sub-section (1), in clause (a), after the words "any excess realisations made by him or any part thereof", the words "any excess realisation made by him or any interest due on such excess realisation or any part of such excess realisation or interest" shall be substituted.

Valida-
tion and
saving.

8. (1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, anything or action done or taken or purporting to have been done or taken under the provisions of the principal Act before the commencement of this Act shall, for all purposes, be deemed to be, and to have always been, as validly and effectively done or taken as if the amendments made to the principal Act by section 2, clause (e) of section 3, section 5 and section 6 had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the provisions of section 2, clause (e) of section 3, section 5, section 6 and sub-section (1) of this section had not come into force.

THE HOOGHLY DOCKING AND ENGINEERING COMPANY
LIMITED (ACQUISITION AND TRANSFER OF
UNDERTAKINGS) ACT, 1984

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

2. Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

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

4. General effect of vesting.

5. Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.

6. Transfer of undertakings of the Company from an existing Government company to a new Government company.

7. Company to be liable for certain prior liabilities.

CHAPTER III

PAYMENT OF AMOUNTS

8. Payment of amount.

9. Payment of further amount.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

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

11. Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.

12. Duty of persons to account for assets, etc., in their possession.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. Continuance of employees.

14. Provident fund and other funds.

*Arrangement of Sections***CHAPTER VI****COMMISSIONER OF PAYMENTS****SECTIONS**

15. Appointment of Commissioner of Payments.
16. Payment by the Central Government to the Commissioner.
17. Certain powers of the Central Government or the Government company.
18. Claims to be made to the Commissioner.
19. Priority of claims.
20. Examination of claims.
21. Admission or rejection of claims.
22. Disbursement of money by the Commissioner to claimants.
23. Disbursement of amounts to the Company.
24. Undisbursed or unclaimed amount to be deposited to the general revenue account.

CHAPTER VII**MISCELLANEOUS**

25. Act to have overriding effect.
26. Contracts to cease to have effect unless ratified by the Central Government or the Government company.
27. Protection of action taken in good faith.
28. Delegation of powers.
29. Penalties.
30. Offences by companies.
31. Power to make rules.
32. Power to remove difficulties.
33. Repeal and saving.

THE SCHEDULE.

**THE HOOGHLY DOCKING AND ENGINEERING COMPANY
LIMITED (ACQUISITION AND TRANSFER OF
UNDER TAKINGS) ACT, 1984**

NO. 55 OF 1984

[23rd August, 1984.]

An Act to provide for the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited with a view to securing the better utilisation of the available infrastructure thereof, to modernise and increase the capacity for ship building and ship repairing so as to reduce the import of ships, vessels and craft and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to subserve the interests of the general public by ensuring the continued supply of the said articles which are essential to the needs of the economy of the country, and for matters connected therewith and incidental thereto.

WHEREAS the Hooghly Docking and Engineering Company Limited is, through its undertakings, engaged in shipbuilding, ship repairing, general engineering and other activities;

AND WHEREAS the Company has the capacity and infrastructure to effect an increase in the country's capacity to manufacture ships and other vessels and craft;

AND WHEREAS an increase in the production of such vessels and craft would reduce the need of the country to make imports of such vessels and craft and would thereby enable the country to save foreign exchange;

AND WHEREAS the Company is also engaged in the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country;

AND WHEREAS the Company had been suffering heavy losses for a number of years mainly due to lack of fresh investment and modernisation;

AND WHEREAS further investment of substantial sums of money is needed to run and modernise the undertakings of the Company; but in view of the serious adverse financial condition of the Company it is not in a position to secure such investment;

AND WHEREAS the liquidation of the Company, by reason of its inability to pay its debts, would prejudicially affect the country's capacity to manufacture such ships, vessels and craft and would thereby be prejudicial to the public interest;

AND WHEREAS in view of the position aforesaid it is necessary to acquire the undertakings of the said Company to enable the Central Government to make necessary investments for securing the proper utilisation of the available facilities for shipbuilding and ship repairing (including the production of vessels and craft) and also for the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country;

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

CHAPTER I

PRELIMINARY

**Short title
and com-
mencement.**

1. (1) This Act may be called the Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.
- (2) It shall be deemed to have come into force on the 28th day of June, 1984.

Definitions.

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

(a) "appointed day" means the date of commencement of this Act;

(b) "Commissioner" means the Commissioner of Payments appointed under section 15;

(c) "Company" means the Hooghly Docking and Engineering Company Limited, being a company as defined in the Companies Act, 1956, and having its registered office at 12, Mission Row, Calcutta-700001;

(d) "existing Government company" means a Government company which is carrying on business on the appointed day;

(e) "new Government company" means a Government company formed and registered on or after the appointed day;

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

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

1 of 1956.

(h) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Act;

(i) 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.

CHAPTER II

ACQUISITION AND TRANSFER 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 vested in, the Central Government.

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

4. (1) The undertakings of the Company 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 on hand, reserve funds, investments, 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.

General effect of vesting.

(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 them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties in any manner 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 the amount specified in section 8 and also out of the amount 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.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking and on and from the date of vesting of such undertaking under section 5, in an existing Government company, or under section 6, in a new Government company, the existing, or new, Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government under section 3, 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, where the undertakings of the Company are directed, under section 5, to vest in an existing Government company or become transferred by virtue of the provisions of section 6 to a new Government company, by or against such Government company.

Power of
Central
Govern-
ment to
direct
vesting
of the
under-
takings of
the Com-
pany in an
existing
Govern-
ment
Company.

5. (1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 6, the Central Government may, if it is satisfied that an existing 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 which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication 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 vest, under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 6, to a new Government company, be deemed to be, the owner in relation to such undertakings and 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, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (1) of section 5, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company; and on the issue of such declaration, the right, title and interest of the Company in relation to its undertakings, which had been directed under sub-section (1) of section 5 to vest in an existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made.

Transfer of
undertakings
of the
Company
from
an exist-
ing Gov-
ernment
company
to a new
Govern-
ment
company.

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (1) in a new Government company, that new Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the existing Government company 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 that new Government company.

7. (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 where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company.

Company
to be liable
for
certain
prior lia-
bilities.

(2) Any liability arising in respect of advances from customers for shipbuilding and non-shipbuilding orders shall, on and from the appointed day, be the liability of the Central Government or of the existing, or new, Government company aforesaid, and shall be discharged by that Government or, as the case may be, the existing, or new, Government company.

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

(a) save as otherwise expressly provided in this Act, no liability 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 where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed on or 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 where the undertakings of the Company vest in an existing, or a new, Government company, against such 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 where the undertakings of the Company vest in an existing, or a new, Government company, against such 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 paid by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees six hundred and fifty lakhs.

Payment of further amount.

9. (1) The amount specified in section 8 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 amount is made by the Central Government to the Commissioner.

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

(3) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in section 8, and also from the amount determined under sub-section (1) in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

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

10. 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 in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 5, vest, on and from the date specified in such direction, in the existing Government company specified therein; or

(b) where a declaration has been made under sub-section (1) of section 6, vest, on and from the date of such declaration, in the new Government company specified therein,

and thereupon the existing, or new, Government company, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to the undertakings owned by it.

11. (1) On the vesting of the management of the undertakings of the Company in the existing, or new, Government company, all persons in charge of the management of the undertakings of the Company immediately before such vesting, shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody relating to the undertakings of the Company.

Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, 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 or in relation to any other matter arising in the course of such management.

12. (1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to any of the undertakings owned by the Company, which have vested in the Central Government or in the existing, or new, Government company under this Act, and which belong to the Company or would have so belonged, if the undertakings owned by the Company had not vested in the Central Government or such 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 persons as the Central Government or the Government company may specify in this behalf.

Duty of persons to account for assets, etc., in their possession.

(2) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in it under section 3.

(3) The 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 undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,—

Continuance of employees.

(a) on and from the appointed day, an employee of the Central Government; and

(b) where the undertakings of the Company are vested in an existing, or a new, Government company, an employee of that company on and from the date of such vesting,

and shall hold office or service under the Central Government or the existing, or new, 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 existing, or new, 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 existing, or new, Government company, as the case may be:

Provided that, unless any extension of service is granted to such person after the appointed day in accordance with the rules in that behalf in force for the time being, such person shall retire compulsorily from the service of the Central Government or the existing, or new, Government company, as the case may be,—

(a) where he has attained or attains the age of fifty-eight years before, or on, or within a period of three months from, the appointed day, on the date of expiry of the said period of three months or on the date on which he shall retire compulsorily from service in accordance with the conditions of service applicable to him immediately before the appointed day, whichever date is earlier;

(b) in any other case, on his attaining the age of fifty-eight years.

(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 undertaking of the Company to the Central Government or the existing, or new, 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.

Provident fund and other funds.

14. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees, whose services have become transferred, by or under this Act to the Central Government or the existing, or new, 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 fund, stand transferred to, and shall 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 existing, or new, Government company, as the case may be, shall be dealt with by that Government or that company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

15. (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.

Appointment of 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.

16. (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 the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company in relation to which payment has been made to him under this Act.

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

17. (1) The Central Government or the existing, or new, 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 such 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 existing, or new, Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government or Government company, after the appointed day for discharging any liability of the Company.

Payment by the Central Government to the Commissioner.

Certain powers of the Central Government or the Government company.

504 *Hooghly Docking and Engineering Company Limited* [ACT 55
(Acquisition and Transfer of Undertakings)]

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 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. 18. Every person having a claim against the Company with regard to any of the matters specified in the Schedule pertaining to the undertakings of 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. 19. The claims made under section 18 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 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; and

(c) 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 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. 21. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the

1.4.1985: vide Notif. No. S.O. 52 (E), dt. 28.1.1985.

country and one issue of any daily newspaper in such 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 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, by order 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 may 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:—

- (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.

(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, such appeal shall lie to the High Court exercising jurisdiction over the place in which the registered office of the Company is situated and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. 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 amount is due, and on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement
of
money by
the
Commissioner
to
claimants.

Disbursement of amounts to the Company.

23. (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 existing, or new, 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 existing, or new, 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.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up 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, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect.

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.

Contracts to cease to have effect unless ratified by the Central Government or the Government company.

26. Every contract entered into by the Company in relation to its undertakings, 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 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 existing, or new, Government company, in which such undertakings have been vested under this Act, and in ratifying such contract, the Central Government or the Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(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 Central Government or the Government company; and

(b) except after giving to 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.

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

Protection
of action
taken in
good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the existing, or new, Government company or other person authorised by the Central 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.

28. (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 this section, section 31 and section 32, may also be exercised by such person or persons as may be specified in the notification.

Delegation
of
powers.

(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.

29. Any person who,—

Penalties.

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

(b) wrongfully obtains possession of, or retains, any property forming part of the undertakings of the Company; or

(c) wilfully withholds or fails to furnish to the Central Government or the existing, or new, 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 undertakings of the Company, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the existing, or new, Government company or to 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 undertakings of the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings of the Company; or

(f) 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.

offences.
by com-
panies.

30. (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.

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 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 (3) of section 4;

(b) the manner in which the monies in any provident fund or other fund under 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.

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:

Power to remove difficulties.

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

7 of 1984. 33. (1) The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984, is hereby repealed.

Repeal and saving.

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

THE SCHEDULE

(See sections 18, 20, 21 and 23)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

Category I—

(a) Wages, salaries and other dues payable to the employees of the Company.

(b) Arrears in relation to contributions to be made by the Company to the provident fund, Employees' State Insurance Fund, Life Insurance Corporation premium and any other arrear under any law for the time being in force.

Category II—

Loans and interests for which Government of India have given guarantees to the public financial institutions.

Category III—

Secured loans with interest advanced by—

(a) public financial institutions;

(b) banks.

Category IV—

Statutory dues.

Category V—

Unsecured loans with interest advanced by the public financial institutions, banks or other creditors.

Category VI—

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

Category VII—

Any other loans or dues.

Rep. by .. 19..... or 1983, S. 22 Sch. I

THE CINEMATOGRAPH (AMENDMENT) ACT, 1984

No, 56 OF 1984

[27th August, 1984.]

An Act further to amend the Cinematograph Act, 1952.

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

37 of 1952.

1. This Act may be called the Cinematograph (Amendment) Act, 1984. Short title.
 2. In the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), section 6B shall be omitted. Omission of section 6B.
 3. In section 7 of the principal Act, in sub-section (1),—
 - (a) for the words "he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both, and in the case of a continuing offence with a further fine which may extend to five thousand rupees for each day during which the offence continues:", the following shall be substituted, namely:—

"he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both, and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues: |
- Provided that a person who exhibits or permits to be exhibited in any place a video film in contravention of the provisions of sub-clause (i) of clause (a) shall be punishable with imprisonment for a term which shall not be less than three months, but which may extend to three years and with fine which shall not be less than twenty thousand rupees, but which may extend to one lakh rupees, and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues;
- Provided further that a court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months, or a fine of less than twenty thousand rupees:";
- (b) in the existing first proviso, for the words "Provided that", the words "Provided further that" shall be substituted;
- (c) in the existing second proviso, for the words "Provided further", the words "Provided also" shall be substituted.

THE BENGAL IMMUNITY COMPANY LIMITED
(ACQUISITION AND TRANSFER OF
UNDERTAKINGS) ACT, 1984

ARRANGEMENT OF SECTIONS

CHAPTER I
PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

3. Transfer to, and vesting in, Central Government of the undertakings of the Company.
4. General effect of vesting.
5. Central Government or existing, or new, Government company, not to be liable for certain prior liabilities.
6. Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.
7. Transfer of the undertakings of the Company from an existing Government company to a new Government company.

CHAPTER III

PAYMENT OF AMOUNTS

8. Payment of amount.
9. Payment of further amount.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

10. Management, etc., of the undertakings of the Company.
11. Duty of persons in charge of management of undertakings of the Company to deliver all assets, etc.
12. Accounts to be rendered by the Company or any other person.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. Employment of certain employees to continue.
14. Provident fund and other funds.

Arrangement of Sections**CHAPTER VI****COMMISSIONER OF PAYMENTS****SECTIONS**

15. Appointment of Commissioner of Payments.
16. Payment by Central Government to the Commissioner.
17. Certain powers of Central Government or existing, or new, Government company.
18. Claims to be made to the Commissioner.
19. Priority of claims.
20. Examination of claims.
21. Admission or rejection of claims.
22. Disbursement of money by Commissioner to claimants.
23. Disbursement of amounts to the Company and possession of certain machinery, equipment, etc.
24. Undisbursed or unclaimed amount to be deposited to the general revenue account.

CHAPTER VII**MISCELLANEOUS**

25. Act to have overriding effect.
26. Contracts to cease to have effect unless ratified by the Central Government or existing, or new, Government company.
27. Penalties.
28. Offences by companies.
29. Protection of action taken in good faith.
30. Delegation of powers.
31. Power to make rules.
32. Power to remove difficulties.

THE SCHEDULE.

THE BENGAL IMMUNITY COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1984

No. 57 of 1984

[29th August, 1984.]

An Act to provide for the acquisition and transfer, in the public interest, of the undertakings of Messrs. Bengal Immunity Company Limited, and for matters connected therewith or incidental thereto.

WHEREAS Messrs. Bengal Immunity Company Limited were engaged in the production and distribution of articles specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public;

AND WHEREAS the Central Government, being of opinion, after an investigation into the affairs of the Company, that the affairs of the Company have been managed in a manner highly detrimental to the public interest, had authorised, under section 18A of the Industries (Development and Regulation) Act, 1951, a body of persons to take over the management of the Company;

AND WHEREAS for the purpose of reconstructing and rehabilitating the undertakings owned by the Company so as to subserve the interests of the general public by the augmentation of production and distribution of different varieties of chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public and to secure the continued supply thereof, it is necessary to acquire the undertakings of the Company;

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.

Short title
and com-
mencement.

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

Definitions.

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

(a) "appointed day" means the date of commencement of this Act;

(b) "Commissioner" means the Commissioner of Payments appointed under section 15;

(c) "Company" means the Bengal Immunity Company Limited, being a company as defined in the Companies Act, 1956, and having its registered office at 153, Lenin Saranee, Calcutta-700013;

(d) "existing Government company" means a Government company which is carrying on business on the appointed day;

(e) "new Government company" means a Government company formed and registered on or after the appointed day;

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

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

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

(i) 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.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

Transfer
to, and
vesting in
Central
Govern-
ment of
the under-
takings of
the Com-
pany.

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 vest in, the Central Government.

¹ 1st October 1984 vide Notification No. S. O. 732 (E), dated 22-9-1984, Gazette of India, Extraordinary, 1984, Part II, Section 3 (ii).

General
effect
of
vesting.

4. (1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, offices, factories, workshops, stores, instruments, plants, machinery and equipment, installations, laboratories, office furniture, stationery and equipment, vehicles, patents, trade marks, cash balances, cash on hand, reserve funds, investments, 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.

(2) All properties and assets 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 them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets 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 the amount specified in section 8, and also out of the amounts 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.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before the appointed day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking, under section 6, in an existing Government company, or under section 7, in a new Government company, the existing, or new, Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property or asset which has vested in the Central Government under section 3, 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 where the undertakings of the Company are directed under section 6 to vest in an existing Government company, or become transferred by virtue of the provisions of section 7 to a new Government company, by or against such Government company.

Central Government or existing, or new, Government company, not to be liable for certain prior liabilities.

5. (1) Every liability of the Company in respect of any period prior to the 1st day of April, 1983, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred by virtue of the provisions of section 7, to a new Government company, against such Government company.

(2) Any liability incurred by, or arising against, the Company on or after the 1st day of April, 1983, including the liability to repay loans advanced to the Company by the Central Government on or after that day, together with the interest due thereon, shall be the liability,—

(a) where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, of that existing Government company; or

(b) where the undertakings of the Company become transferred by virtue of the provisions of section 7, to a new Government company, of that new Government company,

and shall be discharged by such Government company as and when the discharge of such liability becomes due.

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

(a) save as otherwise expressly provided in this Act, no liability of the Company in relation to its undertakings in respect of any period prior to the 1st day of April, 1983, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred by virtue of the provisions of section 7, to a new Government company, against such Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed on or after the appointed day, in respect of any matter, claim or dispute, which arose before the 1st day of April, 1983, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred, by virtue of the provisions of section 7, to a new Government company, against such Government company;

(c) no liability incurred by the Company before the 1st day of April, 1983, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred, by virtue of the provisions of section 7, to a new Government company, against such Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 7, the Central Government may, if it is satisfied that an existing 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 which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication 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.

Power of
Central
Govern-
ment to
direct vest-
ing of the
undertak-
ings of the
Company
in an exist-
ing Gov-
ernment
company.

(2) Where the right, title and interest of the Company in relation to its undertakings vest, under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 7 to a new Government company, be deemed to be, the owner in relation to such undertakings and 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, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

7. (1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (1) of section 6, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company, and on the issue of such declaration, the right, title and interest of the Company in relation to its undertakings which had been directed under sub-section (1) of section 6 to vest in that existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made.

Transfer
of the
undertak-
ings of the
Company
from an
existing
Govern-
ment
com-
pany to a
new Gov-
ernment
company.

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (1) in a new Government company, that new 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 existing Government company in relation to such under-

takings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that new 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 seven hundred and sixty-six lakhs and ninety thousand.

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 two thousand rupees per month for the period commencing on the date on which the management of the undertakings of the Company was taken over by the persons authorised by the Central Government under section 18A of the Industries (Development and Regulation) Act, 1951, 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.

(4) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to its undertakings which have vested in the Central Government under section 3 shall be discharged from the amount referred to in section 8, and also from the amounts determined under sub-sections (1) and (2), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

Management,
etc.,
of the
undertak-
ings of the
Company.

10. 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 in the Central Government under section 3, shall,—

(a) where a direction has been given by the Central Government under sub-section (1) of section 6, vest, on and from the date specified in such direction, in the existing Government company specified therein; or

(b) where a declaration has been made under sub-section (1) of section 7, vest, on and from the date of such declaration, in the new Government company specified therein,

and thereupon the existing, or new, Government company so specified, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

11. (1) On the vesting of the management of the undertakings of the Company in an existing, or a new, Government company, all persons in charge of the management of the undertakings of the Company immediately before such vesting shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody relating to the undertakings.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, 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 or in relation to any other matter arising in the course of such management.

(3) 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 have vested in the Central Government or in any existing, or new, Government company and which belong to the Company, or would have so belonged if the undertakings of the Company had not vested in the Central Government or the existing, or new, Government company, shall be liable to account for the said books, documents or other papers to the Central Government or the existing, or new, Government company, as the case may be, and shall deliver them up to the Central Government or the existing, or new, Government company or to such person or body of persons as the Central Government or such Government company may specify in this behalf.

(4) The Central Government or the existing, or new, Government company may take, or cause to be taken, all necessary steps for securing possession of all undertakings which have vested in the Central Government or the existing, or new, Government company under this Act.

(5) The 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 undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

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

(a) the authorised persons were, after the date on which the management of the undertakings of the Company was taken over by them under section 18A of the Industries (Development and Regulation) Act, 1951 and before the appointed day; or

Duty of persons in charge of management of undertakings of the Company to deliver all assets, etc.

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

(b) the Central Government or the existing, or new, 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, in relation to the period commencing on the date of such taking over and ending on the date on which such part was or is handed over to the authorised persons or, as the case may be, the Central Government or the existing, or new, Government company, render, within a period of sixty days from the appointed day or where such part was so handed over after the appointed day, within a period of sixty days from the date of such handing over, accounts 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 persons from the undertakings or any part thereof during the said period,

to the Central Government or the existing, or new, Government company, as the case may be.

(2) If, on examination of the accounts referred to in sub-section (1), any income or other monies 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 monies are found to be payable to the Company, such income or other monies shall be recoverable by the Central Government or the existing, or new, 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 or the existing, or new, Government company, as the case may be, 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 or the existing, or new, 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 or the existing, or new, Government company, as the case may be, 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 monies 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 or the existing, or new, Government company, as the case may be, on this account were an unsecured debt.

(4) No mortgage, charge, lien or other incumbrance in relation to the undertakings of the Company or any part thereof shall be binding

on the Central Government or the existing, or new, Government company, as the case may be, if such mortgage, charge, lien or other incumbrance was created, at any time during the period in which the authorised persons were and the Central Government or the existing, or new, 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 such undertakings or any part thereof.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become—

(a) on and from the appointed day, an employee of the Central Government; and

(b) where the undertakings of the Company are directed, under sub-section (1) of section 6, to vest in an existing Government company, or are transferred by virtue of the provisions of section 7, to a new Government company, an employee of such Government company on and from the date of such vesting or transfer,

and shall hold office or service under the Central Government or the existing, or new, 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 or transfer and shall continue to do so unless and until his employment under the Central Government or the existing, or new, 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 existing, or new, 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 undertakings of the Company to the Central Government or the existing, or new, Government company, as the case may be, 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.

14. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the persons employed in the undertakings of the Company, the monies relatable to the employees, whose services have become transferred by or under this Act to the Central Government or the existing, or new, Government company, as the case may be, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and shall vest in, the Central Government or the existing, or new, Government company, as the case may be.

Employ-
ment of
certain
employees
to con-
tinue.

Provident
fund and
other
funds.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be, shall be dealt with by that Government or the existing, or new, 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 amounts payable 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 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 the Company—

- an amount equal to the amount specified in section 8; and
- an amount equal to the amounts 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 the said deposit account shall be operated by the Commissioner.

(3) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall enure to the said account.

Certain powers of Central Government or existing, or new, Government company.

17. (1) The Central Government or the existing, or new, 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 existing, or new, Government company, as the case may be, 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 existing, or new, Government company, as the case may be, may make a claim to the Commissioner

4/10/1984. VIDE X-1021/NO. S.O. 768(C.E.) dt. 5.10.84.

with regard to every payment made by it after the appointed day for discharging any liability of the Company, in relation to any period prior to the 1st day of April, 1983; 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 existing, or new, Government company, as the case may be.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the 1st day of April, 1983, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

18. 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.

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

(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 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 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.

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 Schedule and examine the same in accordance with such order of priorities.

(2) If, on examination of the claims, the Commissioner is of the 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 any claim in respect of such lower category.

21. (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 claims, failing which he shall be excluded from the benefit of the disbursements made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in such issue of any daily newspaper in the English language and in such issue of daily newspaper in such regional

Claims
to be
made to
the Com-
missioner.

Priority
of claims.

Examina-
tion of
claims.

Admis-
sion or
rejec-
tion of
claims.

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, by order 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 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:—

(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.

(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 at Calcutta and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. 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 amount is due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

23. (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 in accordance with the priorities 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 existing, or new, 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 existing, or new, Government company, as the case may be, to continue to possess such machinery, equipment and other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up 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 persons entitled to such payment and shall be dealt with as if such transfer had not been made and the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

Disbursement of amounts to the Company and possession of certain machinery, equipment, etc.

Undisbursed or unclaimed amount to be deposited to 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. Every contract entered into by the Company in relation to its undertakings 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 that day, cease to have effect unless such contract is, before the expiry of the said period, ratified in writing by the Central Government or, as the case may be, the existing, or new, Government company, and in ratifying such contract, the Central Government or, as the case may be, the existing, or new, Government company may make such alterations or modifications therein as it may think fit.

Provided that the Central Government or, as the case may be, the existing, or new, Government company shall not omit to ratify a contract and shall not make any alteration or modification therein—

(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 Central Government or, as the case may be, such Government company; and

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

Contracts to cease to have effect unless ratified by the Central Government or existing, or new, Government company.

Penalties.

27. A person who,—

- (a) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government or the existing, or new, Government company, as the case may be, or any person or body of persons authorised by that Government or existing, or new, Government company; or
- (b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Company; or
- (c) wilfully withholds or fails to furnish to the Central Government or, as the case may be, the existing, or new, Government company or any person or body of persons authorised by that Government or Government company, any document relating to such undertakings which may be in his possession, custody or control; or
- (d) fails to deliver to the Central Government or, as the case may be, the existing, or new, Government company or any person or body of persons authorised by that Government or existing, or new, Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the undertakings of the Company; or
- (e) wrongfully removes or destroys any property forming part of the undertakings 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.

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.

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

Protection
of action
taken in
good
faith.

(2) No suit or other legal proceeding shall lie against the Central Government or the existing, or new, Government company or any officer or other employee of that Government or Government company or any officer or other person authorised by that Government or 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.

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 power conferred by this section or section 31 or section 32, may also be exercised by such person or persons as may be specified in the notification.

Delega-
tion of
powers.

(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.

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

Power to
make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for 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 monies in any provident fund or other fund referred to in 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.

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.

Power to
remove
difficul-
ties.

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

528. Bengal Immunity Company Limited (Acquisition [ACT 57 OF 1984]
and Transfer of Undertakings)

THE SCHEDULE

(See sections 19, 20, 21 and 23)

ORDER OF PRIORITIES FOR THE DISCHARGE OF THE LIABILITIES OF THE COMPANY

Part A.—Post-take-over and pre-take-over periods

Category I—

Wages, salaries and other dues of the employees of the Company for the post-take-over period as well as arrears in relation to wages, salaries, provident fund and other dues of the employees for the pre-take-over period, including the contribution to be made to the Employees' State Insurance Fund and additional dearness allowance payable to employees.

Part B.—Post-take-over period

Category II—

(a) Loans advanced by the Central Government and interest due thereon.

(b) Loans advanced by banks and financial institutions, guaranteed by the Central Government and interest due thereon.

(c) Other loans

Category III—

Credit availed of for purposes of trade or manufacturing operations.

Category IV—

(a) Revenue, taxes, cesses, rates or other dues to the Central Government or a State Government.

(b) Any other dues.

Part C.—Pre-take-over period

Category V—

Principal amount of loans advanced by banks and financial institutions and interest due thereon up to and including 18th May, 1978, that is to say, the date on which the notified order under section 18A of the Industries (Development and Regulation) Act, 1951, was published in the Official Gazette.

65 of 1951.

Category VI—

Revenue, taxes, cesses, rates or any other dues payable to the Central Government or a State Government or a local authority.

Category VII—

Amounts due by way of interest on loans referred to in category V after 18th May, 1978 up to the date preceding the appointed day.

Category VIII—

(a) Any other credit availed of for purposes of trade or manufacturing operations.

(b) Any other dues.

Run the 1st 19.....of 1988, S. 2 & Sch. I

**THE CONSERVATION OF FOREIGN EXCHANGE AND
PREVENTION OF SMUGGLING ACTIVITIES
(AMENDMENT) ACT, 1984**

No. 58 OF 1984

[30th August, 1984.]

An Act further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

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

1. (1) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 13th day of July, 1984.

2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (hereinafter referred to as the principal Act), for section 9, the following section shall be substituted, namely:

9. (1) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of July, 1987, may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of his detention, where the order of detention has been made against such person with a view to preventing him from smuggling goods or abetting the smuggling of goods or engaging in transporting or concealing or keeping smuggled goods and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person—

(a) smuggles or is likely to smuggle goods into, out of or through any area highly vulnerable to smuggling; or

(b) abets or is likely to abet the smuggling of goods into, out of or through any area highly vulnerable to smuggling; or

(c) engages or is likely to engage in transporting or concealing or keeping smuggled goods in any area highly vulnerable to smuggling;

Short title
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Substi-
tution
of new
section
for sec-
tion 9.

Cases in
which and
circum-
stances
under
which
persons
may be
detained
for
periods
longer
than
three
months
without
obtaining
the
opinion
of Advi-
sory
Board.

**530 Conservation of Foreign Exchange and Prevention of [ACT 58 OF 1984]
Smuggling Activities (Amendment)**

and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, “area highly vulnerable to smuggling” means—

- (i) the Indian customs waters contiguous to the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry;
- (ii) the inland area fifty kilometres in width from the coast of India falling within the territories of the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry;
- (iii) the inland area fifty kilometres in width from the India-Pakistan border in the States of Gujarat, Jammu and Kashmir, Punjab and Rajasthan;
- (iv) the customs airport of Delhi; and
- (v) such further or other Indian customs waters, or inland area not exceeding one hundred kilometres in width from any other coast or border of India, or such other customs station, as the Central Government may, having regard to the vulnerability of such waters, area or customs station, as the case may be, to smuggling, by notification in the Official Gazette, specify in this behalf.

Explanation 2.—For the purposes of *Explanation 1*, “customs airport” and “customs station” shall have the same meaning as in clauses (10) and (13) of section 2 of the Customs Act, 1962, respectively.

52 of 1962.

(2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 8 shall have effect subject to the following modifications, namely:—

- (i) in clause (b), for the words “shall, within five weeks”, the words “shall, within four months and two weeks” shall be substituted;
- (ii) in clause (c),—
 - (1) for the words “the detention of the person concerned”, the words “the continued detention of the person concerned” shall be substituted;
 - (2) for the words “eleven weeks”, the words “five months and three weeks” shall be substituted;
- (iii) in clause (f), for the words “for the detention”, at both the places where they occur, the words “for the continued detention” shall be substituted.’

Repeal
and
saving.

3. (1) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1984, is hereby repealed.

3 of 1984.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE UNIVERSITY GRANTS COMMISSION (AMENDMENT)
ACT, 1984

No. 59 OF 1984

[30th August, 1984.]

An Act further to amend the University Grants Commission Act, 1956.

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

1. (1) This Act may be called the University Grants Commission (Amendment) Act, 1984.

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

~~2. In section 12 of the University Grants Commission Act, 1956 (hereinafter referred to as the principal Act), after clause (cc), the following clause shall be inserted, namely:—~~

~~“(ccc) establish, in accordance with the regulations made under this Act, institutions for providing common facilities, services and programmes for a group of universities or for the universities in general and maintain such institutions or provide for their maintenance by allocating and disbursing out of the Fund of the Commission such grants as the Commission may deem necessary;”~~

3. In the principal Act, section 12A shall be renumbered as section 12B, and before section 12B as so renumbered, the following section shall be inserted, namely:—

‘12A. (1) In this section,—

(a) “affiliation”, together with its grammatical variations includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of, a university;

(b) “college” means any institution, whether known as such or by any other name which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification;

¹1st October 1984, vide Notification No. S.O. 759 (E), dated 1-10-1984, Gazette of India, Extraordinary, 1984, Part II, Section 3 (ii).

Repealed by Act 19 of 1988, § 2 & Sch. I

Short title
and com-
mencement.

Amend-
ment of
section 12.

Inser-
tion of
new sec-
tion 12A

Regula-
tion of
fees and
prohibi-
tion of
donations
in certain
cases.

(c) "prosecution" in relation to a course of study, includes promotion from one part or stage of the course of study to another part or stage of the course of study;

(d) "qualification" means a degree or any other qualification awarded by a university;

(e) "regulations" means regulations made under this Act;

(f) "specified course of study" means a course of study in respect of which regulations of the nature mentioned in sub-section (2) have been made;

(g) "student" includes a person seeking admission as a student;

(h) "university" means a university or institution referred to in sub-section (1) of section 22.

(2) Without prejudice to the generality of the provisions of section 12, if, having regard to—

(a) the nature of any course of study for obtaining any qualification from any university;

(b) the types of activities in which persons obtaining such qualification are likely to be engaged on the basis of such qualification;

(c) the minimum standards which a person possessing such qualification should be able to maintain in his work relating to such activities and the consequent need for ensuring, so far as may be, that no candidate secures admission to such course of study by reason of economic power and thereby prevents a more meritorious candidate from securing admission to such course of study; and

(d) all other relevant factors,

the Commission is satisfied that it is necessary so to do in the public interest, it may, after consultation with the university or universities concerned, specify by regulations the matters in respect of which fees may be charged, and the scale of fees in accordance with which fees shall be charged in respect of those matters on and from such date as may be specified in the regulations in this behalf, by any college providing for such course of study from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study:

Provided that different matters and different scales of fees may be so specified in relation to different universities or different classes of colleges or different areas.

(3) Where regulations of the nature referred to in sub-section (2) have been made in relation to any course of study, no college providing for such course of study shall—

(a) levy or charge fees in respect of any matter other than a matter specified in such regulations;

(b) levy or charge any fees in excess of the scale of fees specified in such regulations, or

(c) accept, either directly or indirectly, any payment (otherwise than by way of fees) or any donation or gift (whether in cash or kind),

from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study.

(4) If, after making, in relation to a college providing for a specified course of study, an inquiry in the manner provided by regulations, and after giving such college a reasonable opportunity of being heard, the Commission is satisfied that such college has contravened the provisions of sub-section (3), the Commission may, with the previous approval of the Central Government, pass an order prohibiting such college from presenting any students then undergoing such course of study therein to any university for the award of the qualification concerned.

(5) The Commission shall forward a copy of the order made by it under sub-section (4) to the university concerned, and on and from the date of receipt by the university of a copy of such order, the affiliation of such college to such university shall, in so far as it relates to the course of study specified in such order, stand terminated and on and from the date of termination of such affiliation and for a period of three years thereafter affiliation shall not be granted to such college in relation to such or similar course of study by that or any other university.

(6) On the termination of the affiliation of any college under sub-section (5), the Commission shall take all such steps as it may consider appropriate for safeguarding the interests of the students concerned.

(7) The provisions of this section and the regulations made for the purposes of this section shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.'

4. In section 14 of the principal Act, after the words "If any University", the words, brackets, figures and letter "grants affiliation in respect of any course of study to any college referred to in sub-section (5) of section 12A in contravention of the provisions of that sub-section or" shall be inserted.

Amendment of section 14.

5. In section 25 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:

"(3) The power to make rules conferred by this section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable."

Amendment of section 25.

6. In section 26 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, for the words "may make regulations", the words "may, by notification in the Official Gazette, make regulations" shall be substituted;

(ii) after clause (g), the following clauses shall be inserted, namely:—

"(h) regulating the establishment of institutions referred to in clause (ccc) of section 12 and other matters relating to such institutions;

Amendment of section 26.

- (i) specifying the matters in respect of which fees may be charged, and scales of fees in accordance with which fees may be charged, by a college under sub-section (2) of section 12A;
- (j) specifying the manner in which an inquiry may be conducted under sub-section (4) of section 12A.”;
- (b) in sub-section (2), after the word, brackets and letter “clause (d)”, the words, brackets and letters “or clause (h) or clause (i) or clause (j)” shall be inserted;
- (c) after sub-section (2), the following sub-section shall be inserted, namely:—
- “(3) The power to make regulations conferred by this section [except clause (i) and clause (j) of sub-section (1)] shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the regulations or any of them but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.”.

Amend-
ment of
section 27.

Inser-
tion of
new sec-
tion 28.

Laying
of rules
and regu-
lations
before
Parlia-
ment.

Validation.

7. In section 27 of the principal Act, in sub-section (1), for the words “by regulations made”, the words “by regulations made, by notification in the Official Gazette,” shall be substituted.

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

“28. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation 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.”.

9. No rule made, or purporting to have been made, with retrospective effect, under section 25 of the principal Act before the commencement of this Act shall be deemed to have been invalid or ever to have been invalid merely on the ground that such rule was made with retrospective effect and accordingly every such rule and every action taken or thing done thereunder shall be as valid and effective as if the provisions of section 25 of the principal Act, as amended by this Act, were in force at all material times when such rule was made or action or thing was taken or done.

Recd. by Act 19. 8. 88, S. 2 & Sch. I

Central Legislative Draftsman's Office, New Delhi (A)

THE NATIONAL SECURITY (SECOND AMENDMENT)
ACT, 1984

No. 60 OF 1984

[31st August, 1984.]

An Act further to amend the National Security Act, 1980.

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

1. (1) This Act may be called the National Security (Second Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 21st day of June, 1984.

65 of 1980

2. In the National Security Act, 1980 (hereinafter referred to as the principal Act), after section 5, the following section shall be inserted, namely:—

"5A. Where a person has been detained in pursuance of an order of detention [whether made before or after the commencement of the National Security (Second Amendment) Act, 1984] under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever,

and it is not, therefore, possible to hold that the Government or officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention;

Short title
and com-
mence-
ment.

Insertion
of new
section 5A.

Grounds
of deten-
tion
severable.

REPEALED

536

National Security (Second Amendment) [ACT 60 OF 1984]

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.”.

Amendment of section 14. 3. In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not [whether such earlier detention order has been made before or after the commencement of the National Security (Second Amendment) Act, 1984] bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person:

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.”.

Amendment of section 14A. 4. In the principal Act as applicable to the State of Punjab and the Union territory of Chandigarh, in section 14A, in sub-section (2),—

(i) in the opening portion, for the words and figures “sections 10 to 13”, the words and figures “sections 10 to 14” shall be substituted;

(ii) after clause (d), the following clause shall be inserted, namely:—

(e) in section 14, in the proviso to sub-section (2), for the words “twelve months”, the words “two years” shall be substituted.

Repeal and saving. 5. (1) The National Security (Second Amendment) Ordinance, 1984, is hereby repealed.

6 of 1984.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(Sealed by Act 27 of 1987, S.G.C.W.E.G. 1-6-1987)

THE TERRORIST AFFECTED AREAS (SPECIAL COURTS)
ACT, 1984

NO. 61 OF 1984

[31st August, 1984.]

An Act to provide for the speedy trial of certain offences in terrorist affected areas and for matters connected therewith.

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

1. (1) This Act may be called the Terrorist Affected Areas (Special Courts) Act, 1984.

Short title,
extent and
commencement.

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

(3) It shall be deemed to have come into force on the 14th day of July, 1984.

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

Definitions.

2 of 1974.

(a) "Code" means the Code of Criminal Procedure, 1973;

(b) "High Court", in relation to a Special Court, means the High Court within the territorial limits of whose jurisdiction such Special Court is proposed to be, or is, established;

(c) "judicial zone" means a judicial zone constituted under sub-section (1) of section 3;

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

(e) "Public Prosecutor" means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 9 and includes any person acting under the directions of the Public Prosecutor;

(f) "scheduled offence" means an offence specified in the Schedule being an offence committed in a terrorist affected area;

(g) "Special Court" means a Special Court or an Additional Special Court established under section 4;

(h) "terrorist" means a person who indulges in wanton killing of persons or in violence or in the disruption of services or means of communications essential to the community or in damaging property with a view to—

(i) putting the public or any section of the public in fear; or

(ii) affecting adversely the harmony between different religious, racial, language or regional groups or castes or communities; or

(iii) coercing or overawing the Government established by law;
or

(iv) endangering the sovereignty and integrity of India;

(i) "terrorist affected area" means an area declared as a terrorist affected area under section 3;

(j) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to the Code or any provision thereof shall, in relation to an area in which the Code or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

Declaration of terrorist affected area. 3. (1) If the Central Government is of the opinion that offences of the nature specified in the Schedule are being committed in any area by terrorists on such a scale and in such a manner that it is expedient for the purpose of coping with the activities of such terrorists to have recourse to the provisions of this Act, it may, by notification,—

(a) declare such area to be a terrorist affected area; and

(b) constitute such area into a single judicial zone or into as many judicial zones as it may deem fit.

(2) A notification issued under sub-section (1) in respect of an area shall specify the period during which the area shall, for the purposes of this Act, be a terrorist affected area, and where the Central Government is of the opinion that terrorists had been committing in that area, from a date earlier than the date of issue of the notification, offences of the nature specified in the Schedule on such a scale and in such a manner that it is expedient to commence the period specified in the notification from such earlier date, the period specified in the notification may commence from that date:

Provided that—

(a) no period commencing from a date earlier than six months from the date of publication of the notification shall be specified therein; and

(b) so much of the period specified in such notification as is subsequent to the date of publication of the notification shall not, in the first instance, exceed six months, but the Central Government may, by notification, extend such period from time to time by any period not exceeding six months at any one time, if the Central Government, having regard to the activities of terrorists in such area, is of the opinion that it is expedient so to do.

Explanation.—For the avoidance of doubts, it is hereby declared that the period specified in a notification issued under this section may commence from a date earlier than the date of commencement of this Act.

4. (1) For the purpose of providing for speedy trial of scheduled offences committed in a judicial zone, the Central Government may establish, by notification, a Special Court in relation to such judicial zone—

(a) within such judicial zone; or

(b) if the Central Government having regard to the exigencies of the situation prevailing in such judicial zone considers it expedient so to do, at any place outside such judicial zone but within the State in which such judicial zone is situated.

(2) Notwithstanding anything contained in sub-section (1), if, having regard to the exigencies of the situation prevailing in a State, the State Government is of the opinion that it is expedient to establish in relation to a judicial zone, or in relation to two or more judicial zones, in the State, an Additional Special Court outside the State, for the trial of such scheduled offences committed in the judicial zone or judicial zones, the trial whereof within the State—

(a) is not likely to be fair or impartial or completed with utmost dispatch; or

(b) is not likely to be feasible without occasioning a breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor and the Judge or any of them; or

(c) is not otherwise in the interests of justice,

the State Government may request the Central Government to establish in relation to such judicial zone or judicial zones an Additional Special Court outside the State and thereupon the Central Government may, after taking into account the information furnished by the State Government and making such inquiry, if any, as it may deem fit, establish, by notification, such Additional Special Court at such place outside the State as may be specified in the notification.

5. (1) A Special Court shall be presided over by a Judge to be appointed by the Central Government with the concurrence of the Chief Justice of the High Court.

(2) The Central Government may also appoint, with the concurrence of the Chief Justice of the High Court, Additional Judges to exercise jurisdiction in a Special Court.

(3) A person shall not be qualified for appointment as a Judge or an Additional Judge of a Special Court unless he is immediately before such appointment a Sessions Judge or an Additional Sessions Judge in any State.

(4) For the removal of doubts, it is hereby provided that the attainment by a person, appointed as a Judge or an Additional Judge of a Special Court, of age of superannuation under the rules applicable to him in the Service to which he belongs, shall not affect his continuance as such Judge or Additional Judge.

(5) Where any Additional Judge or Additional Judges is, or are, appointed in a Special Court, the Judge of the Special Court may, from time to time, by general or special order, in writing, provide for the distribution of business of

Establishment
of Spe-
cial
Courts.

Composi-
tion and
appoint-
ment of
Judges of
Special
Courts.

the Special Court among himself and the Additional Judge or Additional Judges and also for the disposal of urgent business in the event of his absence or the absence of any Additional Judge.

Place of sitting.

6. A Special Court may, if it considers it expedient or desirable so to do, sit for any of its proceedings at any place, other than the ordinary place of its sitting, in the State in which it is established:

Provided that if the Public Prosecutor certifies to the Special Court that it is in his opinion necessary for the protection of the accused or any witness or otherwise expedient in the interests of justice that the whole or any part of the trial should be held at some place other than the ordinary place of its sitting, the Special Court may, after hearing the accused, make an order to that effect unless, for reasons to be recorded in writing, the Special Court thinks fit to make any other order.

Jurisdiction of Special Court.

7. (1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in a judicial zone in a State at any time during the period during which such judicial zone is, or is part of, a terrorist affected area shall be triable, whether during or after the expiry of such period, only by the Special Court established for such judicial zone in the State:

Provided that where the period specified under sub-section (2) of section 3 as the period during which an area declared by notification under sub-section (1) of that section to be a terrorist affected area commences from a date earlier than the date on which such notification is issued, then—

(a) nothing in the foregoing provisions of this sub-section shall apply to a scheduled offence committed in such area in which the whole of the evidence for the prosecution has been taken before the date of issue of such notification; and

(b) all other cases involving scheduled offences committed in such area and pending before any court immediately before the date of issue of such notification shall stand transferred to the Special Court having jurisdiction under this section and the Special Court to which such proceedings stand transferred shall proceed with such cases from the stage at which they were pending at that time.

(2) Notwithstanding anything contained in sub-section (1), if in respect of a case involving a scheduled offence committed in any judicial zone in a State, the Central Government, having regard to the provisions of sub-section (2) of section 4 and the facts and circumstances of the case and all other relevant factors, is of the opinion that it is expedient that such offence should be tried by the Additional Special Court established in relation to such judicial zone outside the State, the Central Government may make a declaration to that effect:

Provided that no such declaration shall be made unless the State Government has forwarded to the Central Government a report in writing containing a request for making of such declaration.

Explanation.—Where an Additional Special Court is established in relation to two or more judicial zones, such Additional Special Court shall be deemed, for the purposes of this sub-section, to have been established in relation to each of such judicial zones.

(3) A declaration made under sub-section (2) shall not be called in question in any court.

(4) Where any declaration is made in respect of any offence committed in a judicial zone in a State, any prosecution in respect of such offence shall be instituted only in the Additional Special Court established in relation to such judicial zone outside the State, and if any prosecution in respect of such offence is pending immediately before such declaration in any other court, the same shall stand transferred to such Additional Special Court and such Additional Special Court shall proceed with such case from the stage at which it was pending at that time.

8. (1) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.

(2) If, in the course of any trial under this Act, it is found that the accused person has committed any offence, the Special Court may, whether such offence is or is not a scheduled offence, convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

9. (1) For every Special Court, the Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Provided that the Central Government may also appoint for any case or class of cases a Special Public Prosecutor.

(2) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section only if he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

10. (1) A Special Court may take cognizance of any scheduled offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts.

(2) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall, so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate:

Powers of
Special
Courts
with res-
pect to
other
offences.

Public
Prosecu-
tors.

Proce-
dure and
powers of
Special
Courts.

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(3) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

(4) Subject to the other provisions of this Act, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(5) Subject to the other provisions of this Act, every case before an Additional Special Court shall be dealt with as if such case had been transferred under section 406 of the Code to such Additional Special Court.

Power of Supreme Court to transfer case.

Protection of witnesses.

11. Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case be transferred from one Special Court to another Special Court.

12. (1) Notwithstanding anything contained in the Code, all proceedings before a Special Court shall be conducted *in camera*:

Provided that where the Public Prosecutor so applies, any proceedings or part thereof may be held in open court.

(2) A Special Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

(3) In particular and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include—

(a) the holding of the proceedings at a protected place;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and addresses of the witnesses are not disclosed.

(4) Any person who contravenes any direction issued under sub-section (2) shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees.

Power to transfer cases to regular courts.

13. Where after taking cognizance of any offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the trial of the offence as if it has taken cognizance of the offence.

14. (1) Notwithstanding anything contained in the Code, an appeal shall lie as a matter of right from any judgment, sentence or order, not being interlocutory order, of a Special Court to the Supreme Court both on facts and on law.

Appeal.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of a Special Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

15. (1) Notwithstanding anything contained in the Code or any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code and "cognizable case" as defined in that clause shall be construed accordingly.

Modified application of certain provisions of the Code

(2) Section 167 of the Code shall apply in relation to a case involving a scheduled offence subject to the modifications that—

(a) the reference in sub-section (1) thereof to "Judicial Magistrate" shall be construed as a reference to "Judicial Magistrate or Executive Magistrate";

(b) the references in sub-section (2) thereof to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty days", "one year" and "one year", respectively; and

(c) sub-section (2A) thereof shall be deemed to have been omitted.

(3) Sections 366 to 371 and section 392 of the Code shall apply in relation to a case involving a scheduled offence subject to the modifications that the references to "Court of Session" and "High Court", wherever occurring therein, shall be construed as references to "Special Court" and "Supreme Court", respectively.

(4) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed a scheduled offence in a terrorist affected area.

(5) Notwithstanding anything contained in the Code, no person accused of a scheduled offence shall, if in custody, be released on bail or on his own bond unless—

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(6) The limitations on granting of bail specified in sub-section (5) are in addition to the limitations under the Code or any other law for the time being in force on granting of bail.

Ans. by Act 45 of 1985, S. 2.

Overriding effect of Act.

16. (1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court; and for the purpose of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session:

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of sections 326 and 475 of the Code shall, as far as may be, apply to the proceedings before a Special Court, and for this purpose any reference in those provisions to a Magistrate shall be construed as a reference to the Special Court.

Delega-tion.

17. The Central Government may, by notification, delegate, subject to such conditions as may be specified, all or any of the powers exercisable by it under this Act [except the power under sub-section (2) of section 4 and the power under sub-section (2) of section 7] to the State Government.

Power to make rules.

18. The Supreme Court may, by notification, make such rules, if any, as it may deem necessary for carrying out the purposes of this Act.

Saving.

19. (1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces of the Union.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a Court of ordinary criminal justice.

Amend-ment of Act 1 of 1872.

20. In the Indian Evidence Act, 1872, after section 111, the following section shall be inserted, namely:—

Presump-tion as to certain offences.

"111A. (1) Where a person is accused of having committed any offence specified in sub-section (2), in—

(a) any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order; or

(b) any area in which there has been, over a period of more than one month, extensive disturbance of the public peace,

and it is shown that such person had been at a place in such area at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence.

(2) The offences referred to in sub-section (1) are the following, namely:—

(a) an offence under section 121, section 121A, section 122 or section 123 of the Indian Penal Code;

(b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 122 or section 123 of the Indian Penal Code.”

9 of 1984.

21. (1) The Terrorist Affected Areas (Special Courts) Ordinance, 1984, Repeal and saving.

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

THE SCHEDULE

[See section 2-(f)]

PART I—INDIAN PENAL CODE

45 of 1860.

1. Offences under the following provisions of the Indian Penal Code, 1860:—

(a) sections 121, 121A, 122, 123, 124 and 124A;

(b) sections 128, 129 and 130;

(c) sections 131, 132, 133, 134, 135, 136, 138 and 140;

sections 153A and 153B;

sections 189 and 190;

sections 212, 216, 216A, 224, 225 and 225B;

sections 295 and 295A;

sections 302, 304 and 307;

(d) sections 308 and 326;

(e) sections 332, 333, 342, 343, 344, 346, 347, 353, 363, 364, 365 and 367;

sections 392, 393, 394, 395, 396, 397, 398, 399 and 436;

sections 505, 506 and 507.

PART II—THE EXPLOSIVES ACT, 1884

4 of 1884.

2. Offences under the following provisions of the Explosives Act, 1884:—

section 9B.

PART III—THE INDIAN TELEGRAPH ACT, 1885

13 of 1885.

3. Offences under the following provisions of the Indian Telegraph Act, 1885:—

sections 20 and 25.

PART IV—THE INDIAN RAILWAYS ACT, 1890

9 of 1890.

4. Offences under the following provisions of the Indian Railways Act, 1890:—

sections 126, 126A, 127 and 128.

PART V—THE EXPLOSIVE SUBSTANCES ACT, 1908

6 of 1908.

5. Offences under the following provisions of the Explosive Substances Act, 1908:—

sections 3, 4, 5 and 6.

PART VI—THE ARMS ACT, 1959

54 of 1959.

6. Offences under the following provisions of the Arms Act, 1959:—

sections 25(1) excluding clause (b), 25(1A), 25(1B) excluding clauses (d), (e), (i), 26, 27, 28 and 29.

Subs. by Act 45 of 1985, s. 3.

PART VII—THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

7. Offences under the following provisions of the Unlawful Activities (Prevention) Act, 1967:—

sections 10, 11, 12 and 13.

37 of 1967.

PART VIII—THE ANTI-HIJACKING ACT, 1982

8. Offences under the following provisions of the Anti-Hijacking Act, 1982:—

sections 4 and 5.

65 of 1982.

PART IX—THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF CIVIL AVIATION ACT, 1982

9. Offences under the following provisions of the Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982:—

sections 3 and 4.

66 of 1982

PART X—THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, 1984

10. Offences under the following provisions of the Prevention of Damage to Public Property Act, 1984:—

sections 3 and 4.

3 of 1984.

NOTE 1.—An offence specified in item 1(b) of Part I of this Schedule (that is to say, an offence under section 128, 129 or 130 of the Indian Penal Code) shall be deemed to be a scheduled offence only where such offence is committed in relation to a prisoner accused, charged or convicted of a scheduled offence.

45 of 1860.

NOTE 2.—An offence specified in item 1(d) of Part I of this Schedule (that is to say, an offence under section 308 or section 326 of the Indian Penal Code) shall be deemed to be a scheduled offence only where such offence is committed with a firearm.

45 of 1860.

NOTE 3.—The offence of criminal conspiracy or attempt to commit, or abetment of, an offence specified in this Schedule shall be deemed to be a scheduled offence.

NOTE 4.—The commission of an offence specified in this Schedule by any member of an unlawful assembly shall be deemed to be the commission of that scheduled offence by every other member of the unlawful assembly.

**THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA
ACT, 1984**

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

ESTABLISHMENT OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA

3. Establishment of the Reconstruction Bank.
4. Authorised capital.

CHAPTER III

**ACQUISITION AND TRANSFER OF THE UNDERTAKING OF THE INDUSTRIAL
RECONSTRUCTION CORPORATION OF INDIA LIMITED**

5. Undertaking of the Corporation to be transferred to the Reconstruction Bank.
6. Power of Central Government to authorise a person to take over the management of the Corporation.
7. Transfer of the services of the officers and other employees of the Corporation to the Reconstruction Bank.
8. Dissolution of the Corporation.

CHAPTER IV

MANAGEMENT OF THE RECONSTRUCTION BANK

9. Management.
10. Board of directors.
11. Disqualifications of membership of the Board.
12. Term of office, salaries and allowances of Chairman.
13. Disclosure of interest.
14. Meetings of the Board.
15. Executive Committee and other committees.

SECTIONS

16. Existence of vacancy in, or defect in the constitution of, the Board or defect or disqualification of a member not to invalidate the proceedings of the Board.
17. Fees and allowances of directors and members of committees.

CHAPTER V

OBJECTS OF, AND BUSINESS TO BE TRANSACTED BY, THE RECONSTRUCTION BANK

18. Objects and business of the Reconstruction Bank.
19. Prohibited business.
20. Loans by Central Government.
21. Borrowing and acceptance of deposits by the Reconstruction Bank.
22. Power to transfer rights.
23. Loans in foreign currency.
24. Grants, donations, etc., to the Reconstruction Bank.

CHAPTER VI

RECONSTRUCTION ASSISTANCE FUND

25. Reconstruction Assistance Fund.
26. Credits to the Reconstruction Assistance Fund.
27. Utilisation of Reconstruction Assistance Fund.
28. Debits to Reconstruction Assistance Fund.
29. Accounts and audit of Reconstruction Assistance Fund.
30. Liquidation of Reconstruction Assistance Fund.

CHAPTER VII

GENERAL FUND, ACCOUNTS AND AUDIT

31. General Fund.
32. Preparation of accounts and balance-sheet.
33. Disposal of profits accruing to General Fund.
34. Audit.
35. Saving.

CHAPTER VIII

SPECIAL POWERS OF THE RECONSTRUCTION BANK

36. Power to impose conditions for assistance.
37. Assistance to industrial concern when to operate as a charge on the property offered as security.

SECTIONS

38. Power to call for repayment before agreed period.
39. Rights of Reconstruction Bank in case of default.
40. Enforcement of claims by the Reconstruction Bank.
41. Power of Reconstruction Bank relating to property offered as primary or collateral security.
42. Power of Reconstruction Bank to appoint directors or administrators of an industrial concern when management thereof is taken over.
43. Effect of notified order under section 42.
44. Powers and duties of directors and administrators.
45. No right to compensation for termination of contract of managing director, etc.
46. Application of Act 1 of 1956.
47. Restriction on filing of suits for dissolution, etc., of an industrial concern not being a company when its management is taken over.
48. Official assignee or receiver not to be appointed without the consent of the Reconstruction Bank.
49. Power of Central Government to grant relief in the case of certain assisted industrial concerns.
50. Power of High Court to authorise Reconstruction Bank to prepare scheme for reconstruction, etc., of industrial concern.
51. Chief Metropolitan Magistrate and District Magistrate to assist Reconstruction Bank in taking charge of property.

CHAPTER IX**MISCELLANEOUS**

52. Effect of the Act on other laws.
53. Act 43 of 1961, Act 7 of 1964 and Act 45 of 1974 not to apply to Reconstruction Bank.
54. Law relating to winding up not to apply to the Reconstruction Bank.
55. Act 18 of 1891 to apply to the books of the Reconstruction Bank.
56. Certain provisions of Act 10 of 1949 not to apply to Reconstruction Bank.
57. Act 54 of 1969 not to apply to the expansion or amalgamation of certain undertakings.
58. Returns.
59. Delegation of powers.
60. Staff of the Reconstruction Bank.
61. Obligations as to fidelity and secrecy.

SECTIONS

62. Provident fund.
63. Indemnity of directors.
64. Protection of action taken in good faith.
65. Chairman, director, etc., to be public servants.
66. Penalty for making false statement in applications for loans and advances.
67. Offences by companies.
68. Power to make rules.
69. Power of Reconstruction Bank to make regulations.
70. Power to remove difficulties.
71. Amendment of certain enactments.
72. Substitution in Acts, rules or regulations of the Reconstruction Bank in place of the Corporation.

THE FIRST SCHEDULE.**THE SECOND SCHEDULE.****THE THIRD SCHEDULE.**

THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

No. 62 of 1984

[11th September, 1984.]

An Act to provide for the establishment of the Industrial Reconstruction Bank of India, and for the transfer to, and vesting in, the said Reconstruction Bank, of the undertaking of the Corporation known as the Industrial Reconstruction Corporation of India Limited, with a view to enabling the said Reconstruction Bank to function as the principal credit and reconstruction agency for industrial revival and to co-ordinate similar work of the other institutions engaged therein and to assist and promote industrial development, and to rehabilitate industrial concerns, and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Industrial Reconstruction Bank of India Act, 1984.

(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.

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

(a) "appointed day", in relation to any provision of this Act, means the date on which such provision comes into force and any reference to the appointed day in any provision of this Act shall be construed as a reference to the commencement of that provision;

(b) "assistance" means any direct or indirect financial, managerial or technical assistance granted by the Reconstruction Bank in pursuance of any business referred to in section 18;

(c) "assisted industrial concern" means any industrial concern to which any assistance has been given by the Reconstruction Bank;

(d) "Board" means the Board of directors of the Reconstruction Bank;

Short title and commencement.

Definitions.

¹20th March 1985, vide Notification No. S.O. 196 (E), dated 18-3-1985, Gazette of India, Extraordinary 1985, Part II, Section 3(ii).

(e) "charge" includes a charge referred to in section 37;

(f) "Corporation" means the Industrial Reconstruction Corporation of India Limited, a company formed and registered under the Companies Act, 1956, and having its registered office in the State of West Bengal;

(g) "Development Bank" means the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964;

1 of 1956.

18 of 1964.

(h) "dues" means any dues payable by any person to the Reconstruction Bank in relation to any assistance given by, or any bond or debenture issued to, the Reconstruction Bank, and includes interest, rent, costs, charges and commission payable in relation thereto;

(i) "industrial concern"—

(1) means any concern engaged, or to be engaged, in—

(i) the manufacture, preservation or processing of goods;

(ii) shipping;

(iii) mining;

(iv) the hotel industry;

(v) the transport of passengers or goods by road or by water or by air or by ropeway or by lift;

(vi) the generation or distribution of electricity or any other form of power;

(vii) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors;

(viii) assembling, repairing or packing any article with the aid of machinery or power;

(ix) the development of any contiguous area of land as an industrial estate;

(x) fishing or providing shore facilities for fishing or maintenance thereof;

(xi) providing special or technical knowledge or other services for the promotion of industrial growth; or

(xii) the research and development of any process or product in relation to any of the matters aforesaid,

(2) and includes—

(i) an undertaking owned, controlled or managed by a company, firm or other body corporate, which is, or is to be, so engaged,

(ii) such other concern as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—The expression "processing of goods" includes any art or process for producing, preparing or making an article

by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;

(j) "nationalised bank" means a corresponding new bank as defined in section 2 of the—

5 of 1970.

(i) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

40 of 1980.

(ii) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

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

1 of 1956

(l) "public financial institution" means a public financial institution specified in, or under, section 4A of the Companies Act, 1956;

2 of 1934.

(m) "Reconstruction Bank" means the Industrial Reconstruction Bank of India, established under section 3;

2 of 1934.

(n) "regulation" means a regulation made under this Act;

23 of 1955.

(o) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

43 of 1951.

(p) "share" means a share in the capital of the Corporation;

(q) "shareholder" means a person registered by the Corporation as the holder of a share;

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

(s) "State Bank" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955;

(t) "State co-operative bank" means the principal co-operative society in a State, the primary object of which is the financing of other co-operative societies in the State;

(u) "State Financial Corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46, of the State Financial Corporations Act, 1951;

(v) "State level agency" means such institution or agency, operating in any State or Union territory, as may be specified as its agency by the Reconstruction Bank.

CHAPTER II

ESTABLISHMENT OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA

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

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

4. 20.3.1985! Vide Notif.(m/s). No. S.O. 197(E), dt. 18.3.1985.

Establishment of the Reconstruction Bank.

(3) The head office of the Reconstruction Bank shall be at Calcutta, and the Reconstruction Bank may establish offices, branches or agencies at any other place, whether in, or outside, India.

Authorised capital.

4. (1) The authorised capital of the Reconstruction Bank shall be rupees two hundred crores.

(2) The initial paid-up capital of the Reconstruction Bank shall be rupees fifty crores which shall be obtained,—

(a) by the appropriation, out of the assets of the Corporation which stand transferred to the Reconstruction Bank by virtue of the provisions of section 5, of a sum of rupees twenty crores, being an amount equal to the amount paid-up on the shares of the Corporation;

(b) by the conversion, to the extent of rupees twenty crores, of the loans granted by the Central Government to the Corporation, into the capital of the Reconstruction Bank; and

(c) by the subscription, by the Central Government, to the paid-up capital of the Reconstruction Bank, of a sum of rupees ten crores.

(3) The Reconstruction Bank may increase its paid-up capital by making further issue of shares of such amount as it may think expedient, but in doing so, the Reconstruction Bank shall ensure that its total capital does not, in any case, exceed its authorised capital.

(4) The entire paid-up capital of the Reconstruction Bank shall be wholly subscribed by, and allotted to, the Central Government.

CHAPTER III

ACQUISITION AND TRANSFER OF THE UNDERTAKING OF THE INDUSTRIAL RECONSTRUCTION CORPORATION OF INDIA LIMITED

Under-taking of the Corporation to be transferred to the Reconstruction Bank.

5. (1) On such date as the Central Government may, by notification in the Official Gazette, appoint, the undertaking of the Corporation shall stand transferred to, and shall vest in, the Reconstruction Bank.

(2) For the transfer to, and vesting in, the Reconstruction Bank of the undertaking of the Corporation, the Corporation shall be given, in cash, by the Central Government an amount equal to the amount of the total paid-up capital of the Corporation.

(3) The undertaking of the Corporation 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 appointed day, in the ownership, possession, power or control of the Corporation 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 Corporation in relation to its undertaking.

1 20.3.1985! vide Notifn. No. S.O. 198 (E), dt. 18.3.1985.

(4) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the Corporation is a party or which are in favour of the Corporation, shall be of as full force and effect against or in favour of the Reconstruction Bank, and may be enforced or acted upon as fully and effectually as if, in the place of the Corporation, the Reconstruction Bank had been a party thereto or as if they had been issued in favour of the Reconstruction Bank.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the business of the undertaking which has been transferred under this section, is pending by, or against, the Corporation, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the Corporation or of anything contained in this Act, and the suit, appeal or other proceeding may be continued, prosecuted and enforced by, or against, the Reconstruction Bank.

6. (1) The Central Government may appoint, on or after the appointed day, a suitable person to take over the management of the Corporation for the purpose of winding up of the Corporation, and, where any person is so appointed, it shall be the duty of such person to bring the operations of the Corporation to a close, realise the amounts payable to the Corporation under sub-section (2) of section 5, and distribute the said amount to the shareholders in accordance with their rights and interests, and after such realisation and distribution, to obtain the order of the Central Government for the dissolution of the Corporation.

Power of
Central
Govern-
ment to
authorise
a person
to take
over the
manag-
ement
of the
Corpo-
ration.

1 of 1956,

(2) For the purposes of sub-section (1), the person appointed under that sub-section shall have such powers and duties of the Official Liquidator under the Companies Act, 1956, as are necessary to give effect to the provisions of sub-section (1) as if the Corporation 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.

(3) When any person is appointed by the Central Government under sub-section (1), to take over the management of the Corporation,—

1 of 1956,

(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 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 Corporation;

(b) all persons holding office as Chairman and Managing Director and other directors, of the Corporation, immediately before the appointment of the person under sub-section (1), shall be deemed to have vacated their offices as such.

(4) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, any person holding, immediately before the appointed day, office as the Chairman or director of the Corporation, who vacates his office as such on the appointed day by reason of the provisions of sub-section (3), shall not be

entitled to any compensation from the Reconstruction Bank for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such compensation or other benefit which the Reconstruction Bank may grant to him, having regard to what that person would have received as an officer of the Corporation if this Act had not been passed and if he had retired from his employment in the ordinary course.

**Transfer
of the
services
of the
officers
and other
employees
of the
Corpora-
tion to
the Recons-
truction
Bank.**

7. (1) Save as otherwise provided in sub-section (3) of section 6, every officer or other employee of the Corporation shall become, on and from the appointed day, an officer or other employee, as the case may be, of the Reconstruction Bank and shall hold his office or service in that bank on the same terms and conditions and with the same rights to gratuity and other matters as would have been admissible to him, if the undertaking of the Corporation had not been transferred to and vested in, the Reconstruction Bank, and continue to do so unless and until his employment in the Reconstruction Bank is duly terminated or until his remuneration, terms and conditions are duly altered by the Reconstruction Bank:

Provided that an officer or other employee who does not intend to continue as an employee of the Reconstruction Bank may, within ninety days from the appointed day, serve a notice of his intention to the Reconstruction Bank, and, on the expiry of the period of thirty days from the date of service of the notice, he shall cease to be an employee of the Reconstruction Bank and, on such cessation, superannuation and other benefits due to him under the terms of his employment shall be paid to him forthwith by the Reconstruction Bank as if he had retired from service.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, any superannuation or compassionate allowance or benefit from the Corporation or any provident or other fund or any authority administering such fund shall be entitled to be paid by, and to receive from, the Reconstruction Bank or any provident or other fund or any authority administering such fund, the same allowance or benefit so long as he observes the conditions on which the allowance or benefit was granted, and, if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final.

(3) Where, under the terms of any contract of service or otherwise, any person whose service becomes transferred to the Reconstruction Bank by reason of the provisions of this Act is entitled to any payment by way of gratuity or retirement benefit or compensation for any leave not availed of, or any other benefits, such person may enforce his claim against the Reconstruction Bank.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no application made or promotion, increment in salary, allowance or any other benefit granted to any person, before the appointed day, which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisation of the Corporation, or of any provident or other fund in force prior to the appointed day, shall have effect or be payable or claimable from the Reconstruction Bank or from any provident or other fund or from an authority administering such fund, unless the Central Government has, by

general or special order, confirmed the appointment, promotion or increment or has directed the continued grant of such allowance or other benefit, as the case may be.

(5) 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 employee of the Corporation to the Reconstruction Bank shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

(6) Where any person, Chairman, or other director, by whatever name called, or other employee of the Corporation has, before the appointed day, been paid a sum by way of compensation or gratuity, the Reconstruction Bank shall be entitled to claim refund of any sum so paid, if the payment is not confirmed by the Central Government by general or special order.

(7) Where one or more provident funds have been established, or maintained, by the Corporation or any other authority, for the benefit of its officers and other employees, the money debitible to the officers and other employees whose services have become transferred, by, or under this Act to the Reconstruction Bank, shall, out of the monies standing on the appointed day to the credit of such provident fund, stand transferred to, and vested in, the provident fund established by the Reconstruction Bank under section 62.

(8) Where superannuation, welfare and other funds have been established by the Corporation for the benefit of its officers or other employees whose services stand transferred to the Reconstruction Bank, the amount standing to the credit of such fund shall stand transferred, on the appointed day, to the Reconstruction Bank for distribution to the concerned officers or other employees in accordance with their rights and obligations.

8. (1) As soon as realisation and distribution of the amount have been made under section 6, the person appointed under sub-section (1) of that section shall submit his duly audited accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Corporation.

Dissolu-
tion of
the Cor-
poration.

(2) The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts so audited, if satisfied that the amount has been realised and distributed in accordance with the provisions of this Act, make an order that the Corporation is dissolved from the date of the order and the Corporation shall stand dissolved accordingly.

(3) A copy of the order made by the Central Government for the dissolution of the Corporation shall be filed by the Reconstruction Bank 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 Corporation.

(4) 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.

CHAPTER IV

MANAGEMENT OF THE RECONSTRUCTION BANK

Management.

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

(2) Save as otherwise provided in the regulations made under this Act, the Chairman shall also have powers of general superintendence, direction and management of the affairs and business of the Reconstruction Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(3) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on business principles with due regard to public interest.

(4) In the discharge of its functions under this Act, the Reconstruction Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing, and if any dispute arises as to whether a question is or is not a question of such policy, the dispute shall be decided by the Central Government whose decision thereon shall be final.

**Board of
direc-
tors.**

10. (1) The Board shall consist of the following, namely:—

(a) a Chairman, to be appointed by the Central Government, who shall function both as the Chairman and as the managing director;

(b) a Deputy Governor of the Reserve Bank, to be nominated by that Bank;

(c) a director, to be nominated by the Development Bank;

(d) not more than fifteen directors to be nominated by the Central Government, of whom—

(i) three shall be officials of the Central Government,

(ii) not more than three shall be from the public financial institutions,

(iii) not more than five shall be from the State Bank, nationalised banks and the State Financial Corporations,

(iv) not more than four shall be from among persons who have, in the opinion of the Central Government, special knowledge of, and professional experience in, science, technology, economics, industry, industrial co-operatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, or professional experience in, which would in the opinion of the Central Government, be useful to the Reconstruction Bank.

(2) A director nominated under sub-section (1) shall hold office during the pleasure of the authority nominating him.

1. Ins. by Act 66 of 1980, S. 47 (w.e.f. 30.12.1988).

11. No person shall be qualified to be a member of the Board if—

- (a) he has been removed or dismissed from service of—
 - (i) Government, or
 - (ii) Reserve Bank, State Bank or any other bank, or
 - (iii) any public financial institution or State financial corporation, or
 - (iv) any other corporation owned or controlled by Government,
- on a charge of corruption or bribery; or
- (b) he is, or at any time has been, adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (c) he is a lunatic and stands so declared by a competent court; or
- (d) he is or has been convicted of any offence, which, in the opinion of the Central Government, involves moral turpitude.

12. (1) The Chairman shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment for a like term.

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

(a) the Central Government shall have the right to terminate the term of office of the Chairman at any time before the expiry of the term specified under sub-section (1) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and the Chairman shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (1) by giving, to the Central Government, notice of not less than three months in writing;

(b) the Central Government may, at any time, remove the Chairman from office:

Provided that no person shall be removed from his office under this clause, unless he has been given a reasonable opportunity of showing cause against his removal.

(3) Where any vacancy occurs in the office of the Chairman, the Central Government shall appoint a suitable person to discharge the functions of the Chairman.

(4) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may appoint a suitable person to function as the Chairman until the day on which the Chairman resumes the charge of his functions.

(5) The Chairman shall be a whole-time officer of the Reconstruction Bank and shall receive such salaries, allowances and other benefits, and shall be subject to such other terms and conditions, as may be determined by the Central Government:

Provided that the Board may, if it is of opinion, that it is necessary in the public interest so to do, permit the Chairman to undertake, at the request of the Central Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as Chairman.

Disqualifications of membership of the Board.

Term of office, salaries and allowances of Chairman.

Disclosure of interest.

13. No member of the Board shall have an interest, direct or indirect, in any business, industry or concern to which any assistance has been given or is to be given by the Reconstruction Bank under this Act and if any such member acquires such interest at any time during the continuance of such assistance, he shall immediately disclose it to the Board and shall either resign his membership of the Board or dispose of his interest in such manner and within such time as the Board may direct.

Meetings of the Board.

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

(2) If, for any reason, the Chairman is unable to attend any meeting of the Board, any other director nominated by the Chairman in this behalf, and in the absence of such nomination, any director elected by the directors present, from amongst themselves, shall preside at the meeting.

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

(4) Save as otherwise provided under sub-section (3), every director of the Board shall have one vote.

Executive Committee and other committees.

15. (1) The Board may constitute an Executive Committee consisting of such number of directors as may be provided for in the regulations.

(2) The Executive Committee shall discharge such functions as may be provided for in the regulations, or, as may be delegated to it, by the Board.

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

(4) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided for in the regulations.

Existence of vacancy in, or defect in the constitution of, the Board or disqualification of a member not to invalidate the proceedings of the Board.

16. (1) No act or proceeding of the Board or of any Executive or other committee constituted by it shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, such Board, or committee, as the case may be.

(2) All acts done by a person acting in good faith as a member of the Board or of any committee constituted by it shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision of this Act or any other law for the time being in force:

Provided that nothing in this section shall be deemed to give validity to any act of a member of the Board or of any committee after his appointment has been shown to the Reconstruction Bank to be invalid or to have terminated.

17. The directors and members of the committee shall be paid such fees and allowances as may be provided for in the regulations for attending the meetings of the Board or of any committee constituted in pursuance of this Act or for attending to any other work of the Reconstruction Bank:

Provided that no fees shall be payable to the Chairman or to any other director or member who is an official of the Government, or, to a Deputy Governor of the Reserve Bank or to any official of the Development Bank or Reconstruction Bank.

Fees
and al-
lowances
of
Directors
and
mem-
bers of com-
mittees.

CHAPTER V

OBJECTS OF, AND BUSINESS TO BE TRANSACTED BY, THE RECONSTRUCTION BANK

18. (1) The Reconstruction Bank shall function as the principal credit and reconstruction agency for industrial revival by undertaking modernisation, expansion, re-organisation, diversification or rationalisation of industries, and by co-ordinating similar work of other institutions engaged therein, and shall assist and promote industrial development, reconstruction and revival, and undertake rehabilitation of industrial concerns, by providing or procuring assistance and operating schemes for the same, and may, for attaining the said objects, carry on and transact all or any of the following businesses, namely:—

- (a) granting loans and advances (including working capital) to any industrial concern or subscribing to or purchasing or underwriting the issue of stocks, shares, bonds or debentures of any industrial concern or converting the dues in respect of such loans or debentures into the shares of any industrial concern;
- (b) guaranteeing, counter-guaranteeing or providing indemnity, as the case may be, in respect of—
 - (i) loans raised by an industrial concern from any scheduled bank or State co-operative bank or any public financial institution or any other prescribed institution or agency in, or outside, India;
 - (ii) deferred payments due from an industrial concern;
 - (iii) the performance obligations of any contract undertaken by an industrial concern, including repayment of any advance obtained by such industrial concern in connection with such contract;
- (c) subscribing to or purchasing or underwriting the issue of stocks, shares, bonds or debentures of any institution which may be notified by the Central Government in this behalf;
- (d) providing credit to any State level agency or other prescribed institution or agency for grant of loans and advances to industrial concerns;
- (e) providing or obtaining credit from other public financial institutions, scheduled banks and State co-operative banks, for grant of loans and advances to or to furnish guarantees on behalf of the industrial concern;
- (f) providing infrastructural facilities and raw materials;
- (g) providing machinery and other equipment on lease or hire-purchase basis;

Objects
and
business
of the Re-
construc-
tion
Bank.

(h) providing consultancy and merchant banking services in and outside India relating to reconstruction and development of any industrial concern or industry in general;

(i) accepting or discounting of bills of exchange and promissory notes, made, drawn, accepted or endorsed by any industrial concern or by any person selling capital goods manufactured by one industrial concern to another industrial concern;

(j) promoting, owning, taking over, managing industrial concerns and acting as authorised person, where so appointed by the Central Government, to manage an industrial concern, including ancillaries;

(k) transferring or acquiring for consideration any instrument relating to loans and advances;

(l) providing technical, legal, administrative and marketing assistance, promoting, assisting and financing mergers, amalgamation or reconstruction of an industrial or business concern;

(m) providing managerial assistance to industrial concerns including nationalised undertakings by deputing officers from its own cadre or a separate management pool constituted for the purpose;

(n) undertaking research and surveys for evaluating or dealing with marketing or investments, carrying on techno-economic studies in connection with reconstruction and development of industry and establishment of institutes for such purposes including training of personnel;

(o) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;

(p) forming, or controlling, of subsidiaries for carrying out any of its functions or to carry on such other activities conducive to its business;

(q) acting as an agent of—

(i) Central Government or State Government;

(ii) Reserve Bank, State Bank, scheduled bank, State co-operative bank, public financial institutions, State Financial Corporations;

(iii) such other Government or person as the Central Government may authorise;

and to appoint one or more of those institutions, or agencies, or any other prescribed person, as its agent;

(r) performing functions entrusted to or required of it by Central Government under this Act or any other law;

(s) doing any kind of business or assignment in or outside the country which the Central Government may authorise;

(t) collecting information from all concerned agencies relating to industrial sickness and industrial development;

(u) preparing guidelines to assist the Central Government in formulating policy framework to reconstruct, revive or rehabilitate industrial concerns or any industry;

(v) granting loans for housing and other purposes to the officers and other employees (including persons employed on contract) of the Reconstruction Bank;

(w) generally doing such other acts and things as may be incidental to or consequential upon the exercise of its powers or of its duties under this Act or any other law, including sale or transfer of any of its assets.

(2) The Reconstruction Bank may receive in consideration of any of the services mentioned in sub-section (1), such commission, brokerage, interest, rent, remuneration or fees, as may be agreed upon.

(3) The Reconstruction Bank shall not grant any loan or advance or other assistance on the security of its own bonds or debentures.

19. (1) The Reconstruction Bank shall not enter into any kind of business with any industrial concern, of which any of the directors of the Reconstruction Bank is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Reconstruction Bank together hold substantial interest; Prohibited business.

Provided that this sub-section shall not apply to any industrial concern if any director of the Reconstruction Bank—

(i) is nominated as a director of the Board of such concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law, or

(ii) is elected as a director on the Board of such industrial concern by virtue of shares held in that industrial concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Explanation I.—“Government company” has the meaning assigned to it in section 617 of the Companies Act, 1956.

1 of 1956.

Explanation II.—“Substantial interest”, in relation to any industrial concern, means the beneficial interest held by one or more of the directors of the Reconstruction Bank or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is the lesser.

(2) The provisions of sub-section (1)—

(i) shall not apply to any industrial concern as specified therein if the Reconstruction Bank is satisfied that it is necessary in the public interest to enter into business with that concern, and entering into any kind of business with such industrial concern shall be in accordance with and subject to such conditions and limitations as may be provided for in the regulations;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.

**Loans
by
Central
Govern-
ment.**

20. The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Reconstruction Bank interest free loans or loans with interest on such terms and conditions, as may be agreed upon.

**Borrow-
ing and
accept-
ance of
deposits
by the
Recons-
truction
Bank.**

21. (1) The Reconstruction Bank may, for the purpose of carrying out its functions under this Act—

(a) issue and sell bonds and debentures with or without guarantee of the Central Government;

(b) borrow money from the Reserve Bank—

(i) repayable on demand or on the expiry of fixed periods, not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(ii) against bills of exchange or promissory notes arising out of bona fide commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of borrowing;

(iii) for any other purpose approved by the Central Government in accordance with the provisions of the Reserve Bank of India Act, 1934;

(c) borrow money from such other authority, organisation, institution or trust in India as may be generally or specially approved by the Central Government;

(d) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of making of the deposit on such terms as may be generally or specially approved by the Reserve Bank.

(2) The Central Government may, on a request being made to it by the Reconstruction Bank, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

(3) Notwithstanding anything contained in any other law for the time being in force, the bonds and debentures issued or sold by the Reconstruction Bank shall be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

**Power
to
trans-
fer
rights.**

22. The rights and interests of the Reconstruction Bank (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Reconstruction Bank, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Reconstruction Bank may, notwithstanding such transfer, act as the trustee of the transferee.

16 of 1973.

23. (1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973, or in any other enactment for the time being in force relating to foreign exchange, the Reconstruction Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in any foreign country or as otherwise prescribed.

Loans
in
foreign
currency.

(2) The Central Government may, where necessary, guarantee any loan taken by the Reconstruction Bank under sub-section (1), or any part thereof, as to the repayment of principal and payment of interest and other incidental charges.

(3) All loans and advances granted by the Reconstruction Bank out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section (1), for the purpose of granting loans and advances under this Act, or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing—

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Reconstruction Bank in respect of normal market fluctuations in foreign exchange;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.

24. The Reconstruction Bank may receive gifts, grants, donations or benefactions from Government or any other source.

Grants,
donations,
etc., to
the Re-
construction
Bank.

CHAPTER VI

RECONSTRUCTION ASSISTANCE FUND

25. With effect from the appointed day, the Reconstruction Bank shall establish a special fund to be called the Reconstruction Assistance Fund.

Recons-
truction
Assistance
Fund.

Credits
to the
Recons-
truction
Assis-
tance
fund.

26. To the Reconstruction Assistance Fund shall be credited—

- (a) all amounts received for the purposes of that Fund by way of loans, gifts, grants, donations or benefactions from Government or any other source;
- (b) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund;
- (c) income or profits from investments made from the Fund; and
- (d) income accruing or arising to the Fund by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 27.

Utilisa-
tion
of Recons-
truction
Assistance
Fund.

27. (1) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (3) and (4), disburse or spend from the Reconstruction Assistance Fund any amount on account, or in consequence, of the grant of any loan or advance or on account, or in consequence, of entering into any arrangement, under section 18:

Provided that before granting any such loan or advance to an industrial concern or entering into any such arrangement with or in relation to an industrial concern, the Reconstruction Bank shall obtain the prior approval of the Central Government.

(2) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (3) and (4), disburse or spend from the Reconstruction Assistance Fund any amount for one or more of the purposes specified in section 18.

(3) Before seeking the approval of the Central Government under sub-section (1), the Reconstruction Bank shall satisfy itself that the banking or other financial institutions or other agencies are not likely to grant such loan or advance to the industrial concern or to enter into any such arrangement with or in relation to the industrial concern in the ordinary course of business.

(4) The Central Government shall, before giving its approval, satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of industrial reconstruction, revival, rehabilitation or development.

(5) For the removal of doubts, it is hereby declared that nothing contained in this section shall be deemed to preclude the Reconstruction Bank from granting any loan or advance or from entering into any arrangement under clause (a) or under clause (b) of sub-section (1) of section 18, without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Reconstruction Assistance Fund.

28. (1) To the Reconstruction Assistance Fund shall be debited—

- (a) such amounts as may from time to time be disbursed or spent under section 27;
- (b) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that Fund;
- (c) any loss arising on account of investment made out of that Fund; and
- (d) such expenditure arising out of, or in connection with, the administration and application of the Fund as may be determined by the Board.

(2) No amount shall be debited to the Reconstruction Assistance Fund except as provided for in sub-section (1).

29. (1) The balance-sheet and accounts of the Reconstruction Assistance Fund shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Fund to be closed and balanced as on the 30th day of June each year:

(3) The Reconstruction Assistance Fund shall be audited by one or more auditors appointed by the Central Government under section 34, who shall make a separate report thereon.

(4) The provisions of sub-sections (2), (3), (4) and (6) of section 34 shall, so far as may be, apply in relation to the audit of the Reconstruction Assistance Fund, as they apply to the audit of the accounts of the Reconstruction Bank.

(5) The Reconstruction Bank shall furnish to the Central Government, within four months from the date on which the accounts of the Fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a copy of the report on the operation of the Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

30. The Reconstruction Assistance Fund shall not be closed or wound up save by the order of the Central Government and in such manner as that Government may direct.

CHAPTER VII

GENERAL FUND, ACCOUNTS AND AUDIT

31. All receipts of the Reconstruction Bank other than those which are to be credited to the Reconstruction Assistance Fund under this Act shall be credited to a Fund to be called the General Fund and all payments by the Reconstruction Bank, other than those which are to be debited to the Reconstruction Assistance Fund, shall be made out of the General Fund.

32. (1) The balance-sheet and accounts of the Reconstruction Bank shall be prepared in such form and manner as may be provided for in the regulations.

Debits to
Reconstruc-
tion Assis-
tance Fund.

Accounts
and audit
of Recon-
struction
Assistance
Fund.

Liquidation
of
Recon-
struction
Assistance
Fund.

General
Fund.

Prepara-
tion of
accounts
and
balance-
sheet.

Subs. and ins. by Act 66 of 1988, S. 48 (w.e.f. 30.12.1988).

(2) The Board shall cause the books and accounts of the Reconstruction Bank to be closed and balanced as on the 30th day of June each year.

Disposal
of profits
accruing
to General Fund.

33. (1) The Reconstruction Bank may establish a reserve fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), the Reconstruction Bank shall transfer the balance of the net profits to the Central Government.

Audit.

34. (1) The accounts of the Reconstruction Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Reconstruction Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Reconstruction Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Reconstruction Bank.

(3) The auditors may, in relation to such accounts, examine any director or any officer or other employee of the Reconstruction Bank and shall be entitled to require from the Board or officers or other employees of the Reconstruction Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Reconstruction Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Reconstruction Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Reconstruction Bank whether it has been given and whether it is satisfactory.

(5) The Reconstruction Bank shall furnish to the Central Government within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors' report and a report of the working of the Reconstruction Bank during the relevant year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

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

↳ Subs. & Ins. by Act 66 of 1980, S. 49 (W.e.f. 30.12.1988)

35. Save as otherwise provided in sub-section (4) of section 29, nothing contained in this Chapter shall apply to the Reconstruction Assistance Fund.

Saving

CHAPTER VIII

SPECIAL POWERS OF THE RECONSTRUCTION BANK

36. (1) In entering into any arrangement under section 18 with an industrial concern, the Reconstruction Bank may impose such conditions as it may think necessary or expedient for protecting the interests of the Reconstruction Bank, and securing that the assistance granted by it is put to the best use by the industrial concern.

Power to impose conditions for assistance.

(2) Where any arrangement entered into by the Reconstruction Bank with an industrial concern provides for the appointment by the Reconstruction Bank of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Reconstruction Bank in pursuance of the arrangement as aforesaid.

(3) Any director appointed in pursuance of sub-section (2) shall—

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

(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.

37. (1) Where any person or industrial concern seeks any assistance from the Reconstruction Bank on the security of any immovable property belonging to him or to the industrial concern or on the security of the property of some other person whose property is offered as a collateral security for such assistance, such person or industrial concern or, as the case may be, such other person may execute a written declaration in the form specified in the First Schedule stating therein the particulars of the immovable property which is proposed to be offered as security or, as the case may be, collateral security, for such assistance and agreeing that the dues relating to the assistance, if granted, shall be a charge on such property, and, if, on receipt of such declaration, the Reconstruction Bank grants any assistance to the person or the industrial concern aforesaid, the dues relating to such assistance shall, without prejudice to the rights of any other creditor holding any prior charge or mortgage in

Assistance to industrial concern when to operate as a charge on the property offered as security.

respect of the property so specified, be, by virtue of the provisions of this section, a charge on the property specified in the declaration aforesaid.

(2) Where any further immovable property is offered as security for the assistance referred to in sub-section (1), a fresh declaration shall be executed, as far as may be, in the form specified in the First Schedule.

(3) Every declaration referred to in sub-section (1) or sub-section (2) shall be deemed to be a document registrable as an agreement under the provisions of the Registration Act, 1908, and no such declaration shall have effect unless it is so registered.

16 of 190

Power to
call for
repayment
before
agreed
period.

38. Notwithstanding anything contained in any agreement to the contrary, the Reconstruction Bank may, by notice in writing, require any industrial concern to which it has granted any assistance to discharge forthwith in full its entire dues and also discharge its other liabilities to the Reconstruction Bank—

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

(b) if the industrial concern has failed to comply with the terms of its agreement with the Reconstruction Bank in the matter of assistance; or

(c) if there is a reasonable apprehension that the industrial concern is unable to pay its debts or that proceedings for liquidation has been, or may be, commenced in respect thereof; or

(d) if the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as a security for assistance is not insured and kept insured by the industrial concern to the satisfaction of the Reconstruction Bank or if such property depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given; or

(e) if, without the permission of the Board, any machinery, plant or other equipment, whether forming part of the security or otherwise, is removed from the premises of the undertaking or the industrial concern, as the case may be, without being replaced; or

(f) if for any other reason, it is necessary so to do to protect the interests of the Reconstruction Bank.

Rights
of Recon-
struction
Bank in
case of
default.

39. (1) Where an assisted industrial concern, which is under a liability to the Reconstruction Bank under any agreement with the Bank, makes any default in the payment of any dues, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of the agreement with that Bank, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the industrial concern, as well as the right to transfer by way of lease or sale of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank for the purpose of realising its dues or for the revival of the industrial concern.

(2) Any transfer of property made by the Reconstruction Bank in exercise of the powers conferred on it by sub-section (1) shall vest in the transferee the rights in, or in relation to, the property transferred as if the transfer had been made by the owner of such property.

(3) The Reconstruction Bank shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of the security held by it, as it had with respect to the original goods.

(4) Where any action has been taken against an industrial concern under the provisions of sub-section (1), all costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable from the industrial concern and the money which is received by the Reconstruction Bank shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses, and, secondly, in discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(5) Where the Reconstruction Bank takes over the management or possession of any industrial concern under sub-section (1), such industrial concern may sue, and be sued, in its name.

40. (1) (a) Where an assisted industrial concern makes any default in the payment of any dues to, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of agreement with that Bank, or

(b) where the Reconstruction Bank makes an order under section 38 requiring the assisted industrial concern to make immediate repayment of any assistance granted to it and the industrial concern fails to make such repayment,

4 of 1882.

then, without prejudice to the provisions of section 39 of this Act and of section 69 of the Transfer of Property Act, 1882, any officer of the Reconstruction Bank generally or specially authorised by the Board in this behalf, may apply to the concerned High Court for one or more of the following reliefs, namely:—

(i) for an order for the sale or lease of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as security for the assistance granted to it, or for the sale or lease of any other property, of the industrial concern; or

(ii) for transferring the management of the industrial concern to the Reconstruction Bank or to its nominee; or

(iii) for an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery, plant or equipment from the premises of the industrial concern without the previous permission of the Board, where such transfer or removal is apprehended; or

Enforce-
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(iv) for an order for the appointment of a receiver where there is apprehension of the machinery, equipment or any other property of substantial value which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, being removed from the premises of the industrial concern or of being transferred without the previous permission of the Reconstruction Bank.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the industrial concern to the Reconstruction Bank, the ground on which it is made and such other particulars as may be necessary for obtaining the relief prayed for.

(3) Where an application is for any relief mentioned in sub-clause (i) of sub-section (1), the High Court may,—

(a) by an order, authorise the Reconstruction Bank to grant lease of such property to such person and on such terms and conditions as may be specified in the said order; or

(b) pass an order calling upon the person whose property has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank to show cause, on a date to be specified in the notice, as to why an order for the sale of such property or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section, shall not be made; or

(c) pass an *ad interim* order attaching any property of the industrial concern which has not been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section, and pass an order calling upon the industrial concern to show cause on a date to be specified in the notice as to why such order of *ad interim* attachment shall not be made absolute.

(4) Where an application is for the relief mentioned in sub-clause (ii) of sub-section (1), the High Court shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the management of the industrial concern shall not be transferred to the Reconstruction Bank or to its nominee.

(5) Where an application is for the relief mentioned in sub-clause (iii) of sub-section (1), the High Court shall grant an *ad interim injunction* restraining the industrial concern from transferring or removing its machinery or other equipment and issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why such *ad interim injunction* shall not be made absolute.

(6) Where an application is for the relief mentioned in sub-clause (iv) of sub-section (1), the High Court shall pass an *ad interim* order appointing a receiver in respect of the property assigned, charged, hypothecated, mortgaged or pledged and shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the *ad interim* order appointing the receiver shall not be made absolute.

(7) If no cause is shown, on or before the date specified in the notice issued by the High Court, the Court shall forthwith—

(a) make an order for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section;

(b) direct the sale of the attached property or the transfer of the management of the industrial concern to the Reconstruction Bank or to its nominee;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto in accordance with his rights and interests;

(c) make the *ad interim* injunction made under sub-section (5), and the *ad interim* order of appointment of the receiver made under sub-section (6), as the case may be, absolute.

5 of 1908.

(8) If cause is shown, the High Court shall proceed to investigate the claim of the Reconstruction Bank and the provisions of the Code of Civil Procedure, 1908, shall, as far as practicable, apply to such proceedings.

(9) On an investigation made under sub-section (8), the High Court may pass an order,—

(a) for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the assisted industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section; or

(b) confirming the order of attachment and directing the sale of the attached property, or the transfer of the management of the assisted industrial concern to the Reconstruction Bank or to its nominee; or

(c) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto, in accordance with his rights and interests;

(d) releasing the property from attachment, if it is satisfied, that it is not necessary in the interests of the Reconstruction Bank; or

(e) confirming or vacating the injunction or the order for the appointment of the receiver:

Provided that when making any order under clause (d), the High Court may make such further orders as it thinks necessary to protect the interest of the Reconstruction Bank, and may apportion the costs of the proceedings in such manner as it thinks fit.

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

(10) An order of attachment or sale of property under this section shall be carried into effect as far as practicable in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in the execution of a decree as if the Reconstruction Bank were the decree-holder.

5 of 1908.

(11) An order under this section transferring the management of any industrial concern to the Reconstruction Bank or to its nominee shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908, for the possession of immovable property or the delivery of movable property in the execution of a decree, as if the Reconstruction Bank or its nominee were the decree-holder.

5 of 1908.

(12) Any party aggrieved by an order under sub-section (3), sub-section (7) or sub-section (9) may, within thirty days from the date of the order, prefer an appeal to the court empowered to hear appeals from the decisions of the High Court which passed the order and the appellate court may, after hearing the parties, pass such orders as it thinks proper.

(13) Nothing in this section shall be construed, where proceedings for liquidation in respect of an industrial concern have commenced before an application is made under sub-section (1), as giving to the Reconstruction Bank any preference over the other creditors of the industrial concern not conferred on it by any other law.

41. (1) Where a person has offered any property as security, whether primary or collateral, for any assistance given by the Reconstruction Bank to any industrial concern, or to such person, and a default has been committed by the industrial concern or by such person in the payment of any dues of the Reconstruction Bank or in meeting any obligation in relation to the assistance given by the Reconstruction Bank to the industrial concern aforesaid, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the property so offered as security, and shall have the right to transfer by lease or sale the property aforesaid for the purpose of realising its dues.

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(2) Any transfer of property made by the Reconstruction Bank, in exercise of the powers conferred on it by sub-section (1), shall vest in the transferee, the rights in or in relation to the property transferred as if the transfer had been made by the owner of such property.

(3) Where any action has been taken under the provisions of sub-section (1), costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable out of the money received by the Reconstruction Bank by the sale or lease of the property referred to in sub-section (1) and shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses and, secondly, in the discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(4) The Reconstruction Bank may, instead of exercising the powers conferred on it by sub-section (1), apply for the sale or lease of the property referred to in sub-section (1) or for any other relief, to the High Court within the local limits of whose jurisdiction the property aforesaid is situated, and, thereupon, the provisions of section 40 shall, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, apply thereto as if the property aforesaid were the property referred to in section 40, and powers shall be exercisable by the High Court accordingly.

4 of 1882.

42. (1) When the management of an industrial concern is taken over by the Reconstruction Bank, that Bank may, by order, notified in the Official Gazette, appoint as many persons as it thinks fit,—

5 of 1986.

(a) in any case in which the industrial concern is a company, as defined in the Companies Act, 1956, to be the directors of that industrial concern; or

(b) in any other case, to be the administrator of that industrial concern.

(2) The power to appoint directors or administrators under this section includes the power to appoint any individual, firm or body corporate to be the manager of the industrial concern on such terms and conditions as the Reconstruction Bank may think fit.

(3) For the removal of doubts, it is hereby declared that the power to appoint directors, administrators or managers includes the power to remove or replace the person so appointed.

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

Effect of
notified
order
under
section 42.

43. On the issue of a notified order under section 42—

(a) if the industrial concern is a company as defined in the Companies Act, 1956, all persons holding office as directors of the industrial concern, and in any other case, all persons holding any office having the powers of superintendence, direction and control of the industrial concern, immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the industrial concern and any director or manager thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated;

(c) the directors or administrators, appointed under section 42, shall take such steps as may be necessary to take into their custody or under their control, the property, effects and actionable claims to which the industrial concern is, or appears to be, entitled, and all the property and effects of the industrial concern shall be deemed to be in the custody of the directors or administrators, as the case may be, as from the date of the notified order;

(d) the directors appointed under section 42 shall, for all purposes, be the directors of the industrial concern, duly constituted under the Companies Act, 1956, and such directors, or, as the case may be, the administrators, appointed under section 42, shall alone be entitled to exercise all the powers of the directors, or, as the case may be, of the persons exercising powers of superintendence, direction and control of the industrial concern, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial concern or from any other source whatsoever.

Powers
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44. (1) Subject to the control of the Reconstruction Bank, the directors, or, as the case may be, the administrators appointed under section 42, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial concern and shall exercise such powers and have such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1), the directors, or, as the case may be, the administrators appointed under section 42, may, with the previous approval of the Reconstruction Bank, make an application to a court for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 42, between the industrial concern and any other person, and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial concern, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose)

that contract or agreement and the contract or agreement shall have effect accordingly.

45. (1) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing or whole-time director or any other director or a manager or any person in charge of management of an industrial concern shall be entitled to any compensation for the loss of office or for the premature termination, under this Act, of any contract of management entered into by him with such concern.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing or whole-time director, or any other director or manager or any such person in charge of management to recover from the industrial concern, moneys recoverable otherwise than by way of such compensation.

46. (1) Where the management of an industrial concern, being a company as defined in the Companies Act, 1956, is taken over by the Reconstruction Bank, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern,—

(a) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a director of the concern;

(b) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Reconstruction Bank;

(c) no proceeding for the winding up of such concern or for the appointment of a receiver in respect thereof shall lie in any court, except with the consent of the Reconstruction Bank.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 42.

1 of 1956.

47. Where the management of an industrial concern not being a company as defined in the Companies Act, 1956, is taken over by the Reconstruction Bank, no suit or proceedings for dissolution or for partition shall, in so far as it relates to that industrial concern, lie in any court or before any tribunal or other authority except with the consent of the Reconstruction Bank.

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48. No proceeding for the appointment of any official assignee or receiver in relation to any industrial concern the management of which has been taken over by the Reconstruction Bank shall lie in any court except with the consent of the Reconstruction Bank.

49. (1) The Central Government may, if it is satisfied on an application made to it by the Reconstruction Bank that it is necessary so to do for the purpose of reconstructing, reviving or rehabilitating any assisted industrial concern, declare by notification in the Official Gazette, that 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 assisted industrial concern is a party, or which may be applicable to such assisted industrial concern) immediately before the issue of such notified order, shall remain suspended or any 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 notified order.

(2) The notified order made under sub-section (1) shall remain in force, in the first instance, for a period of two years, but the duration of such order may be extended from time to time by a further notified order by a period not exceeding two years at a time:

Provided that no such order shall in any case remain in force for more than eight years in the aggregate from the date of issue of the first notified order.

(3) Any notified order 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 sub-section (1) and suspended or modified by notified order made under that sub-section shall, in accordance with the terms of that notified order, 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 notified orders ceasing to have effect—

(a) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notified order 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 proceeding became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in sub-section (1), the period during which it or the remedy for the enforcement thereof, remained suspended shall be excluded.

(6) During the period of operation of the notified order made under sub-section (1), the Central Government may, if satisfied that it is necessary so to do in the public interest,—

(a) for the reconstruction, revival or rehabilitation of an assisted industrial concern; or

(b) for the proper management of the assisted industrial concern; or

(c) for scaling down the liabilities of the assisted industrial concern, where the financial condition and other circumstances of the assisted industrial concern are such that such scaling down is necessary,

authorise the Reconstruction Bank to prepare a scheme—

(i) for the reconstruction, revival or rehabilitation of the assisted industrial concern; or

(ii) for scaling down the liabilities of the assisted industrial concern; or

(iii) for the amalgamation of the assisted industrial concern with any other industrial concern (referred to in this section as the "transferee industrial concern").

(7) The scheme referred to in sub-section (6) may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern;

(b) in the case of amalgamation of the assisted industrial concern, the transfer to the transferee industrial concern of the business, properties, assets and liabilities of the assisted industrial concern on such terms and conditions as may be specified in the scheme;

(c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;

(d) the alteration of the memorandum and articles of association of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;

(e) subject to the provisions of the scheme, the continuation by, or against, the assisted industrial concern on its reconstruction or, as the case may be, the transferee industrial concern of any actions or proceedings pending against the assisted industrial concern immediately before the date of the notified order made under sub-section (1);

(f) the reduction of the interest or rights which the members and other creditors have, in, or against, the assisted industrial concern before its reconstruction or amalgamation to such extent as the Recons-

struction Bank considers necessary in the interest of the reconstruction, revival or rehabilitation of the assisted industrial concern or for the maintenance of the business of the assisted industrial concern;

(g) the payment in cash or otherwise to the members and other creditors in full satisfaction of their claims—

(i) in respect of their interests or rights, in, or against, the assisted industrial concern before the reconstruction or amalgamation; or

(ii) where their interests or rights aforesaid, in, or against, the assisted industrial concern has or have been reduced under clause (f), in respect of such interests or rights as so reduced;

(h) the vesting of controlling interest, in the reconstructed industrial concern, in the Central Government or its nominee either by the appointment of additional director or by the allotment of additional shares;

(i) the allotment to the members of the assisted industrial concern, for any share or shares held by them therein before its reconstruction or amalgamation [whether their interest on such shares has been reduced under clause (f) or not], of shares in the assisted industrial concern on its reconstruction, or, as the case may be, in the transferee industrial concern and where any member claims payment in cash and not allotment of shares, or where it is not possible to allot shares to any member, the payment in cash to those members in full satisfaction of their claims,—

(i) in respect of their interest in shares in the assisted industrial concern before its reconstruction or amalgamation; or

(ii) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(j) the continuance of the services of such of the employees of the assisted industrial concern as may be specified in the scheme, in the assisted industrial concern itself on its reconstruction, or in the transferee industrial concern on such terms and conditions as may be specified in the scheme;

(k) notwithstanding anything contained in clause (j), where any employees of the assisted industrial concern whose services are proposed in the draft scheme referred to in sub-section (2), have, by notice in writing given to the Reconstruction Bank at any time before the expiry of one month next following the date on which the draft scheme is sent to the assisted industrial concern, intimated their intention of not becoming employees of the assisted industrial concern on its reconstruction or in the transferee industrial concern, the payment, to such employees, and to other employees whose services have not been continued in the assisted industrial concern on its reconstruction or in the transferee industrial concern, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the assisted industrial concern as in force immediately before the date of its reconstruction or amalgamation;

(l) any other terms and conditions for the reconstruction or amalgamation of the assisted industrial concern;

(m) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(8) (a) A copy of the scheme prepared by the Reconstruction Bank shall be sent, in draft, to the assisted industrial concern and also to the transferee industrial concern and any other industrial concern concerned in the amalgamation for suggestions and objections, if any, within such period as the Reconstruction Bank may specify for this purpose;

(b) The Reconstruction Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the assisted industrial concern and as also from the transferee industrial concern, and any other industrial concern concerned in the amalgamation and from any members or other creditors of such industrial concerns and the transferee industrial concern:

Provided that where the transferee industrial concern is a company, the scheme aforesaid shall be laid before such company in the general meeting for the approval of the scheme by its members and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the members of such company.

(9) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(10) For the purpose of assisting it to exercise the powers conferred on it by sub-section (9), the Central Government may constitute an advisory committee consisting of such officers of the Central Government, Reserve Bank, State Bank, public financial institutions and nationalised banks, having knowledge of, or experience in, one or more of the following matters, namely:—

- (a) industry and industrial sickness;
- (b) finance and banking;
- (c) industrial relations;
- (d) law,

as it may think fit.

(11) The sanction accorded by the Central Government under sub-section (9) shall be conclusive evidence that all the requirements of this scheme relating to the reconstruction, or, as the case may be, amalgamation, have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise) be admitted as evidence to the same extent as the original scheme.

(12) On and from such date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the assisted industrial concern, or, as the case may be, on the transferee industrial concern, and any other industrial concern concerned in the amalgamation

and also on all the members and other creditors and employees of each of those assisted industrial concerns and of the transferee industrial concern, and on any other person having any right or liability in relation to any of the assisted industrial concerns or the transferee industrial concern including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those industrial concerns or the transferee industrial concern.

(13) On and from such date as may be specified by the Central Government in this behalf, the properties, and the assets of the assisted industrial concern shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the assisted industrial concern shall, by virtue of, and to the extent provided in, the scheme stand transferred to, and become the liabilities of, the transferee industrial concern.

(14) If any difficulty arises in giving effect to the provisions of the scheme, 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.

(15) Copies of the scheme or of any order made under sub-section (14) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made.

(16) Where the scheme is a scheme for amalgamation of the assisted industrial concern, any business acquired by the transferee industrial concern under the scheme or under any provisions thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee industrial concern, in accordance with the law governing the transferee industrial concern, subject to such modifications in that law or such exemptions of the transferee industrial concern from the operation of any provisions thereof as the Central Government, on the recommendation of the Reconstruction Bank, may, by notification in the Official Gazette, make for the purposes of giving full effect to the scheme:

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

(17) Nothing in this sub-section shall be deemed to prevent the amalgamation with an assisted industrial concern by a single scheme of several industrial concerns in respect of each of which an order has been made under sub-section (1) of this section.

Power of High Court to authorise Reconstruction Bank to prepare scheme for reconstruction, etc., of industrial concern,

50. (1) Where any company, being an industrial concern, is being wound up by the High Court, and the High Court is of opinion that a scheme should be made for the reconstruction, revival or rehabilitation of such industrial concern, it may, by order, authorise the Reconstruction Bank to prepare, and submit to it, a scheme for such reconstruction, revival or rehabilitation of the industrial concern.

(2) The Reconstruction Bank may, in pursuance of the order made by the court under, sub-section (1), prepare a scheme for the reconstruction, revival or rehabilitation of the industrial concern referred to in sub-section (1), and the scheme so made may contain all or any of the matters specified in sub-section (7) of section 49:

Provided that no such scheme shall provide for the amalgamation or merger of the company in liquidation or of any undertaking owned by it with any other company, or any other undertaking owned by such other company, except on the authority of a special resolution passed by the members of that other company.

(3) The High Court may, if it is satisfied, after considering the scheme prepared under sub-section (2), that the scheme ensures the reconstruction, revival or rehabilitation of the industrial concern which is a company being wound up by the court; and such reconstruction, revival or rehabilitation would ensure an increase in the production of goods needed by the community, approve the scheme with or without any modification and the scheme so approved shall have effect, notwithstanding anything to the contrary contained in any other provisions of this Act or any other law, or any agreement, award or other instrument for the time being in force.

51. (1) Where any property, effects or actionable claims have been sold or leased in pursuance of any power conferred by section 39, section 40 or section 41 or where the management of an industrial concern is taken over by the Reconstruction Bank or its nominee or an undertaking or an industrial concern is amalgamated under section 49, the Reconstruction Bank or the administrator or any director, or any other person authorised by the Reconstruction Bank may, for the purpose of taking into custody or control any such property, effects or actionable claims, may, request in writing the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any property or books of account or other documents relating to such property or effects or actionable claims may be situated, or found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him,—

- (a) take possession of such property, effects or actionable claims and books of account and other documents relating thereto, and
- (b) forward them to the Reconstruction Bank, administrator, director or other person, as the case may be.

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

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

Chief
Metropoli-
tan
Magis-
trate
and
District
Magis-
trate
to assist
Recons-
truction
Bank
in
taking
charge
of
pro-
perty.

CHAPTER IX

MISCELLANEOUS

52. The provisions of this Act and of any rule or scheme made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the memorandum or articles of association of an industrial concern or in any other instrument having effect by virtue of any law other than this Act.

Effect
of the
Act on
other
laws.

Act 43
of 1961,
Act 7 of
1964
and
Act 45
of 1974
not to
apply to
Recons-
truction
Bank.

Law
relating
to
winding
up not
to apply
to the
Recons-
truction
Bank.

Act
18 of
1891 to
apply
to the
books
of the
Recons-
truction
Bank.

Certain
pro-
visions
of Act
10 of
1949
not to
apply to
Recons-
truction
Bank.

Act 54
of 1969
not to
apply
to the
ex-
pansion or
amal-
gamation
of certain
under-
takings.

Returns.

53. Notwithstanding anything contained in the Income-tax Act, 1961, or the Companies (Profits) Surtax Act, 1964 or the Interest-tax Act, 1974, or any other enactment for the time being in force relating to tax on income, profits or gains, the Reconstruction Bank shall not be liable to pay income-tax, surtax, interest-tax, or any other tax in respect of—

(a) any income, profits or gains accruing to the Reconstruction Assistance Fund or any amount received to the credit of that Fund;

(b) any income, profits or gains derived, or any amount received, by the Reconstruction Bank; and

(c) any interest collected by, or payable to, the Reconstruction Bank in accordance with the provisions of the Interest-tax Act, 1974.

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

55. The Reconstruction Bank shall be deemed to be a bank for the purposes of the Banker's Books Evidence Act, 1891.

56. Nothing contained in the Banking Regulation Act, 1949, except the provisions of section 34A and section 36AD, shall apply to the Reconstruction Bank.

57. No provision of the Monopolies and Restrictive Trade Practices Act, 1969, in relation to the amalgamation, merger, modernisation or expansion of any undertaking to which Part III of that Act applies, shall apply when such amalgamation, merger, modernisation or expansion of such undertaking, takes place as a result of any sale, lease, purchase, amalgamation or merger in accordance with the provisions of this Act.

58. The Reconstruction Bank shall furnish, from time to time, to the Central Government and the Reserve Bank such returns as the Central Government, or, as the case may be, Reserve Bank, may require.

59. The Board may, by general or special order, delegate, subject to such conditions and limitations, if any, as may be specified in the said order, to the Executive Committee or any other committee constituted under this Act or to any director, officer or other employee of the Reconstruction Bank or to the directors, administrators, officers, or other persons authorised by the Reconstruction Bank to manage any assisted industrial concern or any undertaking owned by such assisted industrial concern, such of its powers and duties under this Act as it may deem necessary.

Delegation of powers.

60. (1) Without prejudice to the provisions of section 7, the Reconstruction Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine their terms and conditions of appointment and service.

Staff of the Reconstruction Bank.

(2) The Reconstruction Bank may, notwithstanding anything contained in any other law for the time being in force or in any contract, depute any of its officers or other members of its staff to, or receive on deputation from, prescribed institutions on such terms and conditions as may be prescribed, and may also depute any of its officers or other members of its staff to any assisted industrial concern:

Provided that nothing contained in this section shall be construed as empowering the Reconstruction Bank to depute to any prescribed institution or assisted industrial concern any officer or other member of its staff on any salary, emoluments or other terms and conditions of service which are less favourable to him than those to which he was entitled immediately before such deputation.

61. (1) The Reconstruction Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, it shall not, except as otherwise provided in sub-section (3), divulge any information relating to, or to the affairs of, the assisted industrial concern, except in circumstances in which it is, in accordance with law or practices and usages, customary among bankers, necessary or appropriate for the Reconstruction Bank to divulge such information.

Obligations as to fidelity and secrecy.

(2) Every director, auditor, adviser, officer or any other employee of the Reconstruction Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Second Schedule.

(3) The Reconstruction Bank may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to,—

(a) the Central Government,

(b) the Reserve Bank,

(c) the State Bank, or any subsidiary bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959, or any nationalised bank, or any other scheduled bank, or any State co-operative bank or the Development Bank or other public financial institutions, or State level agencies or prescribed institutions or State Financial Corporations,

38 of 1959.

such credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation.—For the purposes of this sub-section, the expression "credit information" shall have the same meaning as in clause (c) of

section 45A of the Reserve Bank of India Act, 1934, subject to the modification that the banking company referred to therein shall mean an assisted industrial concern.

2 of 1934.

Provident fund.

62. (1) The Reconstruction Bank shall constitute, for the benefit of the officers and other employees appointed under section 60 (as also for the officers and other employees whose services have been transferred to it under section 7) in such manner and subject to such conditions as may be prescribed, such insurance and provident fund as it may deem fit.

(2) Where any such insurance or provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund as if it were a Government Provident Fund.

19 of 1925.

Indemnity of directors.

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

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

Protection of action taken in good faith.

64. No suit or other legal proceeding shall lie against the Reconstruction Bank, or any director, or officer, or other employee of the Reconstruction Bank, or any other person authorised by the Reconstruction Bank to discharge any functions under this Act, for any loss or damage caused or is 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.

45 of 1860.

Chairman, director, etc., to be public servants.

65. Chairman, director, adviser and auditor and every other employee of the Reconstruction Bank shall be deemed to be public servants for the purposes of Chapter IX of the Indian Penal Code.

Penalty for making false statement in applications for loans and advances.

66. If in any application, return or statement or other document made, submitted, furnished or produced for the purpose of obtaining any loan or advance or any other assistance from the Reconstruction Bank any person makes a statement—

(a) which is false in any material particular, knowing it to be false; or

(b) which omits to state any material fact, knowing it to be material;

he shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

Offences by companies.

67. (1) Where any offence, punishable under section 66, 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), when any offence punishable under section 66 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 purpose 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.

68. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

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

(a) institutions and agencies in, and outside, India, payment of whose loans may be guaranteed, counter-guaranteed or indemnified by the Reconstruction Bank, as may be specified under sub-section (1) of section 18;

(b) institutions and agencies which may be provided with the line of credit by the Reconstruction Bank for grant of loans and advances by them to industrial concerns as may be specified under clause (d) of sub-section (1) of section 18;

(c) persons who may be appointed to act as the agents of the Reconstruction Bank as required by clause (q) of sub-section (1) of section 18;

(d) borrowing of foreign currency from any source, other than the source specified in sub-section (1) of section 28;

(e) the powers which may be exercised and duties which may be performed by any director or administrator appointed under sub-section (1) of section 44;

(f) the manner in which and the conditions subject to which an insurance or provident fund may be constituted by the Reconstruction Bank as required by sub-section (1) of section 62;

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

(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,

Power
to make
rules.

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.

(by notification in the official Gazette.)

Power of
Recon-
struction
Bank to
make re-
gulations

69. (1) The Board may, with the previous sanction of the Central Government, make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which regulations are necessary or expedient for the purpose of giving effect to the provisions of this Act and of the rules made thereunder.

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

(a) restrictions relating to the powers which may be exercised by the Chairman, in pursuance of the provisions of sub-section (2) of section 9;

(b) the time and place at which the Board shall meet and the rules of procedure (including quorum) which shall be observed by the Board in regard to the transaction of business at its meetings, as required by sub-section (1) of section 14;

(c) (i) the constitution of the Executive Committee or other committees and the functions thereof;

(ii) the time and place at which such committees shall meet; and

(iii) the rules of procedure (including quorum) which shall be observed by each Committee in relation to the transaction of business at its meetings, as required by section 15;

(d) fees and allowances which may be paid to the directors and members of the committee, as required by section 17;

(e) conditions and limitations, subject to which an industrial concern may enter into any kind of business, as required by clause (i) of sub-section (2) of section 19;

(f) the form and manner in which the balance sheet and accounts of the Reconstruction Assistance Fund shall be prepared, as required by sub-section (1) of section 29;

(g) the form and the manner in which the balance sheet and accounts of the Reconstruction Bank shall be prepared, as required by sub-section (1) of section 32;

1 Yrs. by Act 66 of 1988, S. 50 (w.e.f. 30.12.1988)

(h) the duties, conduct, salaries, allowances and conditions of service of officers and other employees (whether employed on regular basis or on contract) of the Reconstruction Bank and all those who are appointed for the management of any undertaking, the management of which has been taken over; and

(i) any other matter which is required to be, or may be, provided for by regulations.

(3) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two 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 regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

70. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, remove the difficulty: Power to remove difficulties.

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

71. The enactments specified in Parts I to III of the Third Schedule to this Act shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column of that Schedule. Amendment of certain enactments.

72. In every Act, rule or regulation in force on the appointed day, for the words "Industrial Reconstruction Corporation of India Limited", wherever they occur, the words "Industrial Reconstruction Bank of India" shall be substituted. Substitution in Acts, rules or regulations of the Reconstruction Bank in place of the Corporation.

THE FIRST SCHEDULE

(See section 37)

DECLARATION REFERRED TO IN SECTION 37 OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

I/We..... hereby declare that in consideration of the assistance given to me/us or at my/our request, by the Industrial Reconstruction Bank of India, as specified in the Annexure hereto, I/we

LAW 114

agree that the immovable properties specified in the said Annexure shall form a security for the said assistance and I/we agree that the dues arising out of such assistance shall, on and from the date of execution of these presents, be a charge on the said properties for the recovery of the dues of the said Reconstruction Bank.

Execution by the parties.

1. Signed and delivered by.....
(party receiving the assistance)
2. Signed and delivered by.....
(the concerned person furnishing guarantee/collateral security)
3. Signed by the duly authorised official of Reconstruction Bank.

(NOTE:—Strike out whichever is not applicable.)

THE SECOND SCHEDULE

(See section 61)

DECLARATION OF FIDELITY AND SECRECY

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairman, Director, member of..... committee, auditor, adviser, officer or other employee of the Reconstruction Bank of India and which properly relate to the office or position held by me in or in relation to the said Reconstruction Bank.

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

(Signature)

Signed before me.

THE THIRD SCHEDULE

(See section 71)

Amendments of certain enactments

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Amendments (1)	Date on which amendments shall take effect (2)
1. In section 2, after clause (civ), insert the following clause, namely:— (cv) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984.'	The date of establishment of the Reconstruction Bank.
2. In section 17,— (a) in clause (4G), after the words "the Exim Bank", insert the words "or the Reconstruction Bank"; (b) in clause (4-I), after the words "Exim Bank", insert the words "or Reconstruction Bank"; (c) after clause (4J), insert the following clause, namely:— "(4K) the making to the Reconstruction Bank of loans and advances— (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;" (d) in clause (12B), after the words "the Exim Bank", insert the words "or the Reconstruction Bank".	Do. Do. Do. Do. Do. Do.
3. In section 42, in sub-clause (ii) of clause (c) of the Explanation below the proviso to sub-section (1), after the words "or from the Exim Bank", insert the words "or from the Reconstruction Bank".	Do.
4. In section 46C, in clauses (c) and (d) of sub-section (2), after the words "Exim Bank" wherever they occur, insert the words "or the Reconstruction Bank, as the case may be".	Do.

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

Amendment (1)	Date on which amendment shall take effect (2)
In section 2, in clause (bb), after the words "Export-Import Bank of India", insert the words ", the Industrial Reconstruction Bank of India,".	The date of establishment of the Industrial Reconstruction Bank of India.

PART III

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

(10 OF 1949)

Amendments (1)	Date on which amendments shall take effect (2)
1. In section 5, after clause (ff), insert the following clause, namely:— ‘(ff) “Reconstruction Bank” means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984;’.	The date of establishment of the Reconstruction Bank.
2. In section 18, in the <i>Explanation</i> , in sub-clause (ii) of clause (a), after the words “or from the Exim Bank”, insert the words “or from the Reconstruction Bank”.	Do.
3. In section 34A, in sub-section (3), after the words “the Exim Bank”, insert the words “, the Reconstruction Bank”.	Do.
4. In section 36AD, in sub-section (3), after the words “the Exim Bank”, insert the words “, the Reconstruction Bank”.	Do.
5. In section 56, in sub-clause (ii) of clause (a) of the <i>Explanation</i> under clause (j), after the words “the Exim Bank”, insert the words “, the Reconstruction Bank”.	Do.

THE DOWRY PROHIBITION (AMENDMENT) ACT, 1984

No. 63 of 1984

[11th September, 1984.]

An Act to amend the Dowry Prohibition Act, 1961.

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

1. (1) This Act may be called the Dowry Prohibition (Amendment) Act, 1984.

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

28 of 1961. 2. In section 2 of the Dowry Prohibition Act, 1961 (hereinafter referred to as the principal Act),—

(a) for the words "as consideration for the marriage of the said parties, but does not include", the words "in connection with the marriage of the said parties, but does not include" shall be substituted;

(b) *Explanation I* shall be omitted.

3. Section 3 of the principal Act shall be renumbered as sub-section (1) of that section and,—

(a) in sub-section (1) as so renumbered, for the words "with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both", the following shall be substituted, namely:—

"with imprisonment for a term which shall not be less than six months, but which may extend to two years, and with fine which may extend to ten thousand rupees or the amount of the value of such dowry, whichever is more."

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.";

Short title and commencement.

Amendment of section 2.

Amendment of section 3.

¹2nd October 1985, *vide* Notification No. S.O. 610 (E), dated 19-8-1985, Gazette of India, Extraordinaray, 1985, Part II, Section 3 (ii).

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

“(2) Nothing in sub-section (1) shall apply to, or in relation to,—

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.”

Substitu.
tion of
section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Penalty
for
demand-
ing dowry.

“4. If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

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.”

Amend-
ment of
section 6.

5. In section 6 of the principal Act,—

(a) in sub-section (1), for the words “one year”, wherever they occur, the words “three months” shall be substituted;

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

“(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine which may extend to ten thousand rupees or with both.”;

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

"(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) has not, before his conviction under that sub-section, transferred such property to the woman entitled thereto or, as the case may be, her heirs, the Court shall, in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to such woman or, as the case may be, her heirs within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman or, as the case may be, her heirs.”.

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

2 of 1974.

7. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Substitution
of
section 7.
Cogni-
zance of
offences.

(a) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

(b) no court shall take cognizance of an offence under this Act except upon—

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation;

(c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of any offence under this Act.

Explanation.—For the purposes of this sub-section, “recognized welfare institution or organisation” means a social welfare institution or organisation recognized in this behalf by the Central or State Government.

2 of 1974.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973, shall apply to any offence punishable under this Act.

Substitution of section 8.

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

Offences to be cognizable for certain purposes and to be bailable and non-compoundable.

“8. (1) The Code of Criminal Procedure, 1973 shall apply to 2 of 1974. offences under this Act as if they were cognizable offences—

(a) for the purposes 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.

(2) Every offence under this Act shall be bailable and non-compoundable.”

Amendment of section 9.

8. In section 9 of the principal Act, sub-section (2) shall be renumbered as sub-section (3) thereof, and before sub-section (3) as so renumbered, the following sub-section shall be inserted, namely:—

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

(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and

(b) the better co-ordination of policy and action with respect to the administration of this Act.”

THE BANKING LAWS (AMENDMENT) ACT, 1984

No. 64 of 1984

[11th September, 1984.]

An Act further to amend the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

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

1. This Act may be called the Banking Laws (Amendment) Act, 1984. Short title.

2. In the State Bank of India Act, 1955, after section 43, the following section shall be inserted, namely:— Insertion of new section 43A in Act 23 of 1955.

21 of 1965. "43A. (1) No officer, adviser or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] of the State Bank shall be entitled to be paid any bonus.

21 of 1965. (2) No employee of the State Bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

14 of 1947. (3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument".

3. In the State Bank of India (Subsidiary Banks) Act, 1959, after section 50, the following section shall be inserted, namely:— Insertion of new section 50A in Act 38 of 1959.

21 of 1965. "50A. (1) No officer, adviser or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] of a subsidiary bank shall be entitled to be paid any bonus.

(2) No employee of a subsidiary bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

21 of 1965.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.”

14 of 1947.

4. In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, after section 12, the following section shall be inserted, namely:—

Insertion
of new
section
12A in Act
5 of 1970.

Bonus.

“12A. (1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] of a corresponding new bank shall be entitled to be paid any bonus.

21 of 1965.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

21 of 1965.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.”

14 of 1947.

5. In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, after section 12, the following section shall be inserted, namely:—

Insertion
of new
section
12A in Act
40 of 1980.

Bonus.

“12A. (1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] of a corresponding new bank shall be entitled to be paid any bonus.

21 of 1965.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

21 of 1965.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.”

14 of 1947.

Act...19... 68, 5.2. 204.7

THE COPYRIGHT (AMENDMENT) ACT, 1984

No. 65 OF 1984

[14th September, 1984.]

An Act further to amend the Copyright Act, 1957.

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

1. (1) This Act may be called the Copyright (Amendment) Act, 1984.

Short title
and
commencement.

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

2. In section 2 of the Copyright Act, 1957 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 2

(a) in clause (f), the following *Explanation* shall be inserted at the end, namely:—

'Explanation.—For the purposes of this clause, "video films" shall also be deemed to be work produced by a process analogous to cinematography';

(b) after clause (h), the following clause shall be inserted, namely:—

"(hh) "duplicating equipment" means any mechanical contrivance or device used or intended to be used for making copies of any work";

(c) in clause (o), for the words "and compilations", the words "compilations and computer programmes, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer based equipment, is capable of reproducing any information" shall be substituted;

(d) in clause (t), after the word "negative", the words "duplicating equipment" shall be inserted.

¹ 8th October 1984, *vide* Notification No. G.S.R. 712 (E), dated 8-10-1984, Gazette of India, Extraordinary, 1984, Part II, Section 3 (i).

Amend-
ment of
section 51.

3. In section 51 of the principal Act, in clause (b),—

(a) in sub-clause (iv), the brackets and words “(except for the private and domestic use of the importer)” shall be omitted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that nothing in sub-clause (iv) shall apply to the import of two copies of any work, other than a cinematograph film or record, for the private and domestic use of the importer.”.

Insertion
of new
section
52A.

4. After section 52 of the principal Act, the following section shall be inserted, namely:—

Particulars
to be
included in
records
and video
films.

“52A. (1) No person shall publish a record in respect of any work unless the following particulars are displayed on the record and on any container thereof, namely:—

(a) the name and address of the person who has made the record;

(b) the name and address of the owner of the copyright in such work; and

(c) the year of its first publication.

(2) No person shall publish a video film in respect of any work unless the following particulars are displayed in the video film, when exhibited, and on the video cassette or other container thereof, namely:—

(a) if such work is a cinematograph film required to be certified for exhibition under the provisions of the Cinematograph Act, 1952, a copy of the certificate granted by the Board of Film Certification under section 5A of that Act in respect of such work;

(b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of the copyright in such work for making such video film; and

(c) the name and address of the owner of the copyright in such work.”.

Amend-
ment of
section 63.

5. In section 63 of the principal Act, for the words “shall be punishable with imprisonment which may extend to one year, or with fine, or with both”, the following shall be substituted, namely:—

“shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and

with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

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 or a fine of less than fifty thousand rupees".

6. After section 63 of the principal Act, the following section shall be inserted, namely:—

"63A. Whoever having already been convicted of an offence under section 63 is again convicted of any such offence shall be punishable for the second and for every subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

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 one year or a fine of less than one lakh rupees:

Provided further that for the purposes of this section, no cognizance shall be taken of any conviction made before the commencement of the Copyright (Amendment) Act, 1984."

7. In section 64 of the principal Act,—

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

"(1) Any police officer, not below the rank of a sub-inspector, may, if he is satisfied that an offence under section 63 in respect of the infringement of copyright in any work has been, is being, or is likely to be, committed, seize without warrant, all copies of the work, and all plates used for the purpose of making infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as practicable, be produced before a Magistrate.";

(b) in sub-section (2),—

(i) after the words "copies of a work", the words ", or plates," shall be inserted;

(ii) after the words "such copies", the words "or plates" shall be inserted.

8. In section 65 of the principal Act, for the words "one year, or with fine, or with both", the words "two years and shall also be liable to fine" shall be substituted,

Insertion of new section 63A.

Enhanced penalty on second and subsequent convictions.

Amend-
ment of
section 64.

Amend-
ment of
section
65.

Insertion
of new
section
68A.

Penalty
for
contraven-
tion of
section
52A.

Amend-
ment of
Act 12 of
1974.

9. After section 68 of the principal Act, the following section shall be inserted, namely:—

“68A. Any person who publishes a record or a video film in contravention of the provisions of section 52A shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.”.

10. In the Economic Offences (Inapplicability of Limitation) Act, 1974,—

(a) in section 2, in clause (i), after the word “enactments”, the words “or provisions, if any, thereof” shall be inserted;

(b) in the Schedule, after entry 1 relating to the Indian Income-tax Act, 1922, the following entry shall be inserted, namely:—

“1A. Clause. (a) of section 63 of the Copyright Act, 1957 (14 of 1957).”.

11 of 1922.

THE FAMILY COURTS ACT, 1984

No. 66 OF 1984

[14th September, 1984.]

An Act to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Family Courts Act, 1984.
Short title,
extent and
commencement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.

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

- (a) "Judge" means the Judge or, as the case may be, the Principal Judge, Additional Principal Judge or other Judge of a Family Court;
- (b) "notification" means a notification published in the Official Gazette;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "Family Court" means a Family Court established under section 3;
- (e) all other words and expressions used but not defined in this Act and defined in the Code of Civil Procedure, 1908 shall have the meanings respectively assigned to them in that Code.

5 of 1908.

Establishment of Family Courts.

CHAPTER II

FAMILY COURTS

3. (1) For the purpose of exercising the jurisdiction and powers conferred on a Family Court by this Act, the State Government, after consultation with High Court, and by notification,—

(a) shall, as soon as may be after the commencement of this Act, establish for every area in the State comprising a city or town whose population exceeds one million, a Family Court;

(b) may establish Family Courts for such other areas in the State as it may deem necessary.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Family Court shall extend and may, at any time, increase, reduce or alter such limits.

Appointment of Judges.

4. (1) The State Government may, with the concurrence of the High Court, appoint one or more persons to be the Judge or Judges of a Family Court.

(2) When a Family Court consists of more than one Judge,—

(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(b) the State Government may, with the concurrence of the High Court, appoint any of the Judges to be the Principal Judge and any other Judge to be the Additional Principal Judge;

(c) the Principal Judge may, from time to time, make such arrangements as he may deem fit for the distribution of the business of the Court among the various Judges thereof;

(d) the Additional Principal Judge may exercise the powers of the Principal Judge in the event of any vacancy in the office of the Principal Judge or when the Principal Judge is unable to discharge his functions owing to absence, illness or any other cause.

(3) A person shall not be qualified for appointment as a Judge unless he—

(a) has for at least seven years held a judicial office in India or the office of a Member of a Tribunal or any post under the Union or a State requiring special knowledge of law; or

(b) has for at least seven years been an advocate of a High Court or of two or more such Courts in succession; or

(c) possesses such other qualifications as the Central Government may, with the concurrence of the Chief Justice of India, prescribe.

(4) In selecting persons for appointment as Judges,—

(a) every endeavour shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and to promote the welfare of children and qualified by reason of their experience and expertise to promote the settlement of disputes by conciliation and counselling are selected; and

(b) preference shall be given to women.

(5) No person shall be appointed as, or hold the office of, a Judge of a Family Court after he has attained the age of sixty-two years.

(6) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of, a Judge shall be such as the State Government may, in consultation with the High Court, prescribe.

5. The State Government may, in consultation with the High Court, provide, by rules, for the association, in such manner and for such purposes and subject to such conditions as may be specified in the rules, with a Family Court of—

(a) institutions or organisations engaged in social welfare or the representatives thereof;

(b) persons professionally engaged in promoting the welfare of the family;

(c) persons working in the field of social welfare; and

(d) any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

6. (1) The State Government shall, in consultation with the High Court, determine the number and categories of counsellors, officers and other employees required to assist a Family Court in the discharge of its functions and provide the Family Court with such counsellors, officers and other employees as it may think fit.

(2) The terms and conditions of association of the counsellors and the terms and conditions of service of the officers and other employees, referred to in sub-section (1), shall be such as may be specified by rules made by the State Government.

Association
of
social
welfare
agencies,
etc.

Counsel-
lors,
officers
and other
em-
ployees
of
Family
Courts.

Juris-
dition.

CHAPTER III

JURISDICTION

7. (1) Subject to the other provisions of this Act, a Family Court shall—

(a) have, and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—

- (a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;
- (b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;
- (c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;
- (d) a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship;
- (e) a suit or proceeding for a declaration as to the legitimacy of any person;
- (f) a suit or proceeding for maintenance;
- (g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973; and

(b) such other jurisdiction as may be conferred on it by any other enactment.

Exclusion
of
jurisdi-
ction and
pending
proceed-
ings.

8. Where a Family Court has been established for any area,—

(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the *Explanation* to that sub-section;

(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973;

(c) every suit or proceeding of the nature referred to in the *Explanation* to sub-section (1) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973,—

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code; and

2 of 1974.

2 of 1974.

2 of 1974.

(ii) which would have been required to be instituted or taken before or by such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established, shall stand transferred to such Family Court on the date on which it is established.

CHAPTER IV

PROCEDURE

9. (1) In every suit or proceeding, endeavour shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceeding and for this purpose a Family Court may, subject to any rules made by the High Court, follow such procedure as it may deem fit.

Duty of Family Court to make efforts for settlement.

(2) If, in any suit or proceeding, at any stage, it appears to the Family Court that there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement.

(3) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Family Court to adjourn the proceedings.

5 of 1908.

10. (1) Subject to the other provisions of this Act and the rules, the provisions of the Code of Civil Procedure, 1908 and of any other law for the time being in force shall apply to the suits and proceedings (other than the proceedings under Chapter IX of the Code of Criminal Procedure, 1973) before a Family Court and for the purposes of the said provisions of the Code, a Family Court shall be deemed to be a civil court and shall have all the powers of such court.

Procedure generally.

2 of 1974.

2 of 1974.

(2) Subject to the other provisions of this Act and the rules, the provisions of the Code of Criminal Procedure, 1973 or the rules made thereunder, shall apply to the proceedings under Chapter IX of that Code before a Family Court.

(3) Nothing in sub-section (1) or sub-section (2) shall prevent a Family Court from laying down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings or at the truth of the facts alleged by the one Party and denied by the other.

11. In every suit or proceedings to which this Act applies, the proceedings may be held *in camera* if the Family Court so desires and shall be so held if either party so desires.

Proceedings to be held *in camera*.

12. In every suit or proceedings, it shall be open to a Family Court to secure the services of a medical expert or such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purposes of assisting the Family Court in discharging the functions imposed by this Act.

Assistance of medical and welfare experts.

Right to legal representation.

13. Notwithstanding anything contained in any law, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner:

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curiae*.

Application of Indian Evidence Act, 1872.

14. A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

1 of 1872.

Record of oral evidence.

15. In suits or proceedings before a Family Court, it shall not be necessary to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record.

Evidence of formal character on affidavit.

16. (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.

(2) The Family Court may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding summon and examine any such person as to the facts contained in his affidavit.

Judgment.

17. Judgment of a Family Court shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

Execution of decrees and orders.

18. (1) A decree or an order (other than an order under Chapter IX of the Code of Criminal Procedure, 1973), passed by a Family Court shall have the same force and effect as a decree or order of a civil court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 for the execution of decrees and orders.

2 of 1974.

5 of 1908.

2 of 1974.

(2) An order passed by a Family Court under Chapter IX of the Code of Criminal Procedure, 1973 shall be executed in the manner prescribed for the execution of such order by that Code.

(3) A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary civil court to which it is sent for execution.

CHAPTER V

APPEALS

Appeal.

19. (1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973 or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

5 of 1908.

2 of 1974.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

(4) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.

(5) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.

CHAPTER VI

MISCELLANEOUS

20. 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.

Act to have overriding effect.

21. (1) The High Court may, by notification in the Official Gazette, make such rules as it may deem necessary for carrying out the purposes of this Act.

Power of High Court to make rules.

(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) normal working hours of Family Courts and holding of sittings of Family Courts on holidays and outside normal working hours;

(b) holding of sittings of Family Courts at places other than their ordinary places of sitting;

(c) efforts which may be made by, and the procedure which may be followed by, a Family Court for assisting and persuading parties to arrive at a settlement.

22. (1) The Central Government may, with the concurrence of the Chief Justice of India, by notification, make rules prescribing the other qualifications for appointment of a Judge referred to in clause (c) of sub-section (3) of section 4.

Power of the Central Government to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two 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.

23. (1) The State Government may, after consultation with the High Court, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the

Power of the State Government to make rules.

following matters, namely:—

(a) the salary or honorarium and other allowances payable to, and the other terms and conditions of Judges under sub-section (6) of section 4;

(b) the terms and conditions of association of counsellors and the terms and conditions of service of the officers and other employees referred to in section 6;

(c) payment of fees and expenses (including travelling expenses) of medical and other experts and other persons referred to in section 12 out of the revenues of the State Government and the scales of such fees and expenses;

(d) payment of fees and expenses to legal practitioners appointed under section 13 as *amicus curiae* out of the revenues of the State Government and the scales of such fees and expenses;

(e) any other matter which is required to be, or may be, prescribed or provided for by rules.

(3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

THE TAXATION LAWS (AMENDMENT) ACT, 1984

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Amendment of section 2.
3. Amendment of section 9.
4. Amendment of section 10.
5. Amendment of section 13.
6. Amendment of section 16.
7. Amendment of section 17.
8. Amendment of section 23.
9. Insertion of new section 25A.
10. Amendment of section 40.
11. Amendment of section 40A.
12. Amendment of section 45.
13. Insertion of new section 47A.
14. Amendment of section 49.
15. Substitution of new section for section 53.
16. Amendment of section 54E.
17. Amendment of section 64.
18. Amendment of section 80.
19. Amendment of section 80C.
20. Amendment of section 80CC.
21. Amendment of section 80L.
22. Amendment of section 130.
23. Amendment of section 132.

SECTIONS

24. Amendment of sections 132B, 139, 201, 213 to 217, 220, 243, 244 and 269K and Second Schedule.
25. Amendment of section 139.
26. Amendment of section 144B.
27. Amendment of section 146.
28. Amendment of section 153.
29. Amendment of section 154.
30. Amendment of section 155.
31. Insertion of new Chapter XIVA.
32. Amendment of section 186.
33. Amendment of section 187.
34. Amendment of section 208.
35. Amendment of section 214.
36. Amendment of section 215.
37. Amendment of section 220.
38. Amendment of section 231.
39. Amendment of section 245A.
40. Amendment of section 245C.
41. Amendment of section 245D.
42. Amendment of section 245E.
43. Amendment of section 245H.
44. Amendment of section 245M.
45. Amendment of section 246.
46. Amendment of section 253.
47. Amendment of section 263.
48. Amendment of section 271.
49. Amendment of section 273.
50. Amendment of section 273A.
51. Amendment of section 279.
52. Amendment of section 288.

CHAPTER III**AMENDMENTS TO THE WEALTH-TAX ACT, 1957**

53. Amendment of section 4.
54. Amendment of section 5.

SECTIONS

55. Substitution of new section for section 8A.
56. Amendment of section 17A.
57. Amendment of section 18.
58. Amendment of section 18B.
59. Insertion of new Chapter IVA.
60. Amendment of section 22A.
61. Amendment of section 22C.
62. Amendment of section 22D.
63. Amendment of section 22H.
64. Amendment of section 22M.
65. Amendment of section 25.
66. Amendment of section 31.
67. Amendment of section 34A.
68. Insertion of new section 34ACC.
69. Amendment of section 35.
70. Insertion of new section 35EE.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

71. Amendment of section 2.
72. Amendment of section 5.
73. Substitution of new section for section 7A.
74. Amendment of section 24.
75. Amendment of sections 32 and 33A.
76. Amendment of section 34.

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

77. Amendment of sections 7B to 7D.
78. Amendment of section 13.
79. Amendment of section 14.
80. Amendment of section 16.

CHAPTER VI

AMENDMENT TO THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS)
Act, 1974

81. Amendment of section 13.

*Arrangement of Sections***CHAPTER VII****AMENDMENTS TO THE INTEREST-TAX ACT, 1974****SECTIONS**

82. Amendment of section 17.
83. Amendment of section 19.

CHAPTER VIII**MISCELLANEOUS**

84. Applicability of revised rate of interest.

THE TAXATION LAWS (AMENDMENT) ACT, 1984

No. 67 OF 1984

[14th September, 1984.]

An Act further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Companies (Profits) Surtax Act, 1964, the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 and the Interest-tax Act, 1974.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1984.

(2) Section 84 of this Act shall come into force on the 1st day of October, 1984, and, save as otherwise provided, the remaining provisions of this Act shall come into force on the 1st day of April, 1985.

Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In section 2 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), for clause (47), the following clause shall be substituted, namely:—

Amendment of section 2.

'(47) "transfer", in relation to a capital asset, includes,—

- (i) the sale, exchange or relinquishment of the asset; or
- (ii) the extinguishment of any rights therein; or
- (iii) the compulsory acquisition thereof under any law; or
- (iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment;'

Amend-
ment of
section 9.

3. In section 9 of the Income-tax Act, in sub-section (1), in the *Explanation* to clause (i), after clause (c), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely:—

- “(d) in the case of a non-resident, being—
- (1) an individual who is not a citizen of India; or
- (2) a firm which does not have any partner who is a citizen of India or who is resident in India; or
- (3) a company which does not have any shareholder who is a citizen of India or who is resident in India,

no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations which are confined to the shooting of any cinematograph film in India.”.

Amend-
ment of
section 10.

4. In section 10 of the Income-tax Act,—

(a) after clause (5), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely:—

“(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by the individual, firm or company referred to in clause (d) of the *Explanation* to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering any service in connection with such shooting;”;

(b) in clause (10AA), for the words “on superannuation”, wherever they occur, the words “whether on superannuation” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978;

(c) in clause (13A), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

“Explanation.—For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

(a) the residential accommodation occupied by the assessee is owned by him; or

(b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him;”.

Amend-
ment of
section 13.

5. In section 13 of the Income-tax Act, in sub-section (3), in clause (b), for the words “five thousand rupees”, the words “twenty-five thousand rupees” shall be substituted.

6. In section 16 of the Income-tax Act, in clause (i), after the proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely:—

Amend-
ment of
section 16.

"Explanation.—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;"

7. In section 17 of the Income-tax Act,—

Amend-
ment of
section 17.

(i) in clause (1), after sub-clause (v), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1978, namely:—

“(va) any payment received by an employee in respect of any period of leave not availed of by him;”

(ii) in clause (2),—

(a) in sub-clause (iv), the word “and” shall be omitted;

(b) in sub-clause (v), the word “and” shall be inserted at the end;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) where the employer has advanced any loan to the employee for the purpose of building a house or purchasing a site or a house and a site or for purchasing a motor car, and either no interest is charged by the employer on the amount of such loan or interest is charged at a rate lower than the rate of interest which the Central Government may, having regard to the rate of interest charged by it from its employees on loans for such purpose granted to them, specify in this behalf by notification in the Official Gazette, an amount equal to,—

(a) in a case where such loan is advanced without charging any interest, the interest calculated in the prescribed manner on such loan at the rate so specified;

(b) in a case where such loan is advanced by charging interest at a rate lower than the rate so specified, the difference between the interest calculated in the prescribed manner on such loan at the rate so specified and the interest charged by the employer:

Provided that this sub-clause shall not apply in the case of—

(1) an employee of the Central Government or any State Government; or

(2) an employee, not being an employee referred to in paragraph (a) or paragraph (b) of sub-clause (iii), whose income under the head "Salaries", exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;".

Amend-
ment of
section 23.

8. In section 23 of the Income-tax Act, in sub-section (1),—

(a) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne by the owner, be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him:";

(b) in the second proviso, the words, brackets and letters "so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) or clause (c) or clause (d) is in no case a loss" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984;

(c) the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—For the removal of doubts, it is hereby declared that where a deduction in respect of any taxes referred to in the first proviso to this sub-section is allowed in determining the annual value of the property in respect of any previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any earlier assessment year), no deduction shall be allowed under the first proviso in determining the annual value of the property in respect of the previous year in which such taxes are actually paid by the owner."

Insertion
of new
section 25A.

9. After section 25 of the Income-tax Act, the following section shall be inserted, namely:—

Special
provision
for cases
where un-
realised
rent
allowed as
deduction
is realised
subse-
quently.

"25A. Where a deduction has been made under clause (x) of sub-section (1) of section 24 in the assessment for any year in respect of rent from property let to a tenant which the assessee cannot realise and subsequently during any previous year the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax (without making any deduction under section 23 or section 24) as the income of that previous year, whether the assessee is the owner of that property in that year or not."

10. In section 40 of the Income-tax Act, after clause (b), the following Explanations shall be inserted, namely:—

Amend.
ment of
section 40.

Explanation 1.—Where interest is paid by a firm to any partner of the firm who has also paid interest to the firm, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the firm to the partner exceeds the payment of interest by the partner to the firm.

Explanation 2.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented" respectively),—

(i) interest paid by the firm to such individual or by such individual to the firm, otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual or by such individual to the firm as partner in a representative capacity and interest paid by the firm to the person so represented or by the person so represented to the firm, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a partner in a firm, otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

11. In section 40A of the Income-tax Act, in sub-section (5), in clause (b) of *Explanation 2*,—

Amend.
ment of
section
40A.

(a) in sub-clause (iv), the word "and" shall be omitted;

(b) in sub-clause (v), for the words "an annuity", the words "an annuity; and" shall be substituted;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

"(vi) the amount treated as a perquisite under sub-clause (vi) of clause (2) of section 17."

12. In section 45 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amend.
ment of
section 45.

"(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as, stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of

such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.”.

Insertion
of new
section
47A.

Withdra-
val of
exemption
in certain
cases.

13. After section 47 of the Income-tax Act, the following section shall be inserted, namely:—

'47A. Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47,—

(i) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (iv) or, as the case may be, clause (v) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head “Capital gains” of the previous year in which such transfer took place.’.

Amend-
ment of
section 49.

14. In section 49 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

‘(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head “Capital gains” by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee company shall be the cost for which such asset was acquired by it.’.

Substitu-
tion of new
section for
section 53.

Exemption
of capital
gains from
a residen-
tial houses.

15. For section 53 of the Income-tax Act, the following section shall be substituted, namely:—

‘53. Notwithstanding anything contained in section 45, where in the case of an assessee being an individual, the capital gain arises from the transfer of a capital asset (other than a short-term capital asset), being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head “Income from house property”, the capital gain arising from such transfer shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) in a case where the full value of the consideration received or accruing as a result of the transfer of such capital asset does not exceed two hundred thousand rupees, the whole of the capital gain shall not be charged under section 45;

(b) in a case where the full value of such consideration exceeds two hundred thousand rupees, so much of the capital gain as bears to the whole of the capital gain the same

proportion as the amount of two hundred thousand rupees bears to such consideration shall not be charged under section 45:

Provided that nothing contained in this section shall apply to a case where the assessee owns on the date of such transfer any other residential house.

16. In section 54E of the Income-tax Act, in sub-section (1), after the proviso and before *Explanation 1*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

Amendment of section 54E.

"Provided further that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as is not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee."

17. In section 64 of the Income-tax Act, in sub-section (1),—

Amendment of section 64.

(a) in clause (vi), the word "and" shall be omitted;

(b) in clause (vii), for the words "or both.", the words "or both; and" shall be substituted;

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

"(viii) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife or son's minor child or both."

18. In section 80 of the Income-tax Act, for the words and figures "under section 139", the words, brackets and figures "within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer" shall be substituted.

Amendment of section 80.

19. In section 80C of the Income-tax Act, in sub-section (2),—

Amendment of section 80C.

(i) in clause (g), for the words "consisting only of", the words "consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1971;

(ii) in clause (h), for the words "or an association of persons or a body of individuals consisting only of", the words "or, where the assessee is an association of persons or a body of individuals consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983.

Amend-
ment of
section
80CC.

20. In section 80CC of the Income-tax Act, in sub-section (1), in clause (c), for the words "consisting only of", the words "consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978.

Amend-
ment of
section
80L.

21. In section 80L of the Income-tax Act,—

(a) in sub-section (1), in clause (c), for the words "consisting only of", the words "consisting, in either case, only of" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972;

(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 April, 1976, namely:—

"(3) For the removal of doubts, it is hereby declared that where the income referred to in sub-section (1) is derived from any asset held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under the said sub-section in respect of such income in computing the total income of any partner of the firm or any member of the association or body."

Amend-
ment of
section
130.

22. In section 130 of the Income-tax Act, in sub-section (2), for the word and figures "sections 253", the word and figures "sections 132, 253" shall be substituted with effect from the 1st day of October, 1984.

Amend-
ment of
section
132.

23. In section 132 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (5), for the words "ninety days", the words "one hundred and twenty days" shall be substituted;

(b) in sub-section (11), for the words and brackets "such authority, as may be notified in this behalf by the Central Government in the Official Gazette (hereafter in this section referred to as the notified authority)", the words "the Commissioner" shall be substituted;

(c) after sub-section (11), the following sub-section shall be inserted, namely:—

"(11A) Every application referred to in sub-section (11) which is pending immediately before the 1st day of October, 1984, before an authority notified under that sub-section as it stood immediately before that day shall stand transferred on that day to the Commissioner, and the Commissioner may proceed with such application from the stage at which it was on that day:

Provided that the applicant may demand that before proceeding further with the application, he be re-heard;"

(d) in sub-section (12),—

(i) for the words "the notified authority", the words "the Commissioner" shall be substituted;

(ii) for the words "as it thinks fit", the words "as it or he thinks fit" shall be substituted;

(e) in *Explanation 1*, for the words "ninety days", the words "one hundred and twenty days" shall be substituted.

24. In section 132B, section 139, section 201, sections 213 to 217, section 220, section 243, section 244 and section 269K of the Income-tax Act and in rule 60 of the Second Schedule to that Act, for the words "twelve per cent.", wherever they occur, the words "fifteen per cent." shall be substituted with effect from the 1st day of October, 1984.

Amend-
ment of
sections
132B,
139, 201,
213 to
217, 220,
243,
244 and
269K and
Second
Schedule.

25. In section 139 of the Income-tax Act,—

(a) in sub-section (1A),—

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

"(b) his income or the income of such other person under the head "Salaries", exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;"

(ii) the *Explanation* shall be omitted;

(b) in sub-section (8),—

(i) in clause (a), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this sub-section.";

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

"(b) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount of tax on which interest was payable under this sub-section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded."

Amend-
ment of
section
139.

Amend-
ment of
section
144B.

26. In section 144B of the Income-tax Act, in sub-section (1), for the words "the Income-tax Officer proposes to make any variation", the words, figures and letters "the Income-tax Officer proposes to make, before the 1st day of October, 1984, any variation" shall be substituted with effect from the 1st day of October, 1984.

Amend-
ment of
section
146.

27. In section 146 of the Income-tax Act, in sub-section (1), after the words and figures under section 144", the words, figures and letters "before the 1st day of October, 1984" shall be inserted with effect from the 1st day of October, 1984.

Amendment
of section
153.

28. In section 153 of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1),—

(i) in clause (c), for the word and figures "section 139," the words and figures "section 139; or" shall be substituted;

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

"(d) the expiry of six months from the end of the month in which an application under clause (a) of sub-section (2) of section 143 is made by the assessee,";

(b) in *Explanation 1* below sub-section (3), after clause (iv), the following clause shall be inserted, namely:—

"(iv) the period (not exceeding sixty days) commencing from the date on which the Income-tax Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him, or".

Amend-
ment of
section
154.

29. In section 154 of the Income-tax Act, with effect from the 1st day of October, 1984,—

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

"(1) With a view to rectifying any mistake apparent from the record, an income-tax authority referred to in section 116 may amend any order passed by it under the provisions of this Act.";

(b) in sub-section (7), for the words "from the date of the order sought to be amended", the words "from the end of the financial year in which the order sought to be amended was passed" shall be substituted.

Amend-
ment of
section
155.

30. In section 155 of the Income-tax Act,—

(a) in sub-section (1), with effect from the 1st day of October, 1984,—

(i) in clause (b), after the word and figures "section 264," the word "or" shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,”;

(iii) for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted;

(b) in sub-section (2), with effect from the 1st day of October, 1984,—

(i) in clause (b), after the word and figures “section 264”, the word “or” shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) on any order passed under sub-section (4) of section 245D on the application made by the association or body,”;

(iii) for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted;

(c) in sub-section (4), for the words “from the date of the order passed”, the words “from the end of the financial year in which the order was passed” shall be substituted with effect from the 1st day of October, 1984;

(d) in sub-section (7), for the words “from the date of the final order passed”, the words “from the end of the financial year in which the final order was passed” shall be substituted with effect from the 1st day of October, 1984;

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

“(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of the provisions of clause (iv) or, as the case may be, clause (v) of section 47, but is deemed under section 47A to be income chargeable under the head “Capital gains” of the previous year in which the transfer took place by reason of—

(i) such capital asset being converted by the transferee company into, or being treated by it as, stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceasing to hold the whole of the share capital of the subsidiary company,

at any time before the expiry of the period of eight years from the date of such transfer, the Income-tax Officer may, notwithstanding anything contained in this Act, re-compute the total income of the transferor company for the relevant previous year

and 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 capital asset was so converted or treated or in which the parent company or its nominees or, as the case may be, the holding company ceased to hold the whole of the share capital of the subsidiary company.;

(f) in sub-section (8), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(g) in sub-section (9), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(h) in clause (a) of sub-section (10), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(i) in sub-section (10A), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial year in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984;

(j) in sub-section (10C), for the words "reckoned from the date of the assessment", the words "reckoned from the end of the financial years in which the assessment was made" shall be substituted with effect from the 1st day of October, 1984.

31. In the Income-tax Act, after Chapter XIV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely:—

**Insertion
of new
Chapter
XIVA.**

'CHAPTER XIVA'

SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

**Procedure
when as-
sessee
claims
identical
question
of law
is pend-
ing
before
High
Court or
Supreme
Court.**

158A. (1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Income-tax Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or before the Supreme Court on a reference under section 257 or in appeal under section 261 (such case being hereafter in this section referred to as the other case), he may furnish to the Income-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Income-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case.

in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Income-tax Officer on the correctness of the claim made by the assessee and where the Income-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Income-tax Officer or the appellate authority, as the case may be, may, by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the Income-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Income-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.—In this section,—

(a) "appellate authority" means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal;

(b) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty on him.

32. In section 186 of the Income-tax Act, in sub-section (4), for the words "the date of the order cancelling the registration", the words "the end of the financial year in which the order cancelling the registration was passed" shall be substituted with effect from the 1st day of October, 1984.

Amend-
ment of
section
187.

33. In section 187 of the Income-tax Act, to sub-section (2), the following proviso shall be added and shall be deemed to have been added with effect from the 1st day of April, 1975, namely:—

“Provided that nothing contained in clause (a) shall apply to a case where the firm is dissolved on the death of any of its partners.”

Amend-
ment of
section
208.

34. In section 208 of the Income-tax Act, with effect from the 2nd day of April, 1985,—

(a) in sub-section (1), in clause (a), for the words, brackets, letter and figures “clause (a) of section 209”, the words, brackets, letter and figures “clause (a) of sub-section (1) of section 209” shall be substituted;

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

“(3) Notwithstanding anything contained in the foregoing provisions of this section; where in the case of an assessee referred to in clause (c) or clause (d) of sub-section (2), the amount of advance tax payable by him during the financial year, as computed in accordance with the provisions of this section, does not exceed fifteen hundred rupees, it shall not be necessary for such assessee to pay any advance tax during that financial year.”

Amend-
ment of
section
214.

35. In section 214 of the Income-tax Act,—

(a) in sub-section (1), for the words “tax determined on regular assessment”, the words “assessed tax” shall be substituted;

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

“(1A) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.”;

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

Explanation 1.—In this section, “assessed tax” shall have the same meaning as in sub-section (5) of section 215.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.’

Amend-
ment of
section
218.

36. In section 215 of the Income-tax Act,—

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

“(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.”;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273.”.

37. In section 220 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1984, namely:—

Amend-
ment of
section
230.

“(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

(i) payment of such amount would cause genuine hardship to the assessee;

(ii) default in the payment of the amount on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.”.

38. In section 231 of the Income-tax Act, for the words “one year”, wherever they occur, the words “three years” shall be substituted with effect from the 1st day of October, 1984.

Amend-
ment of
section
231.

39. In section 245A of the Income-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely:—

Amend-
ment of
section
245A.

(a) “case” means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or

by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before an income-tax authority on the date on which an application under sub-section (1) of section 245C is made;—

Amend
ment of
section
245C.

40. In section 245C of the Income-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely:—

"(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Income-tax Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless the additional amount of income-tax payable on the income disclosed in the application exceeds fifty thousand rupees.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 245D, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to only one previous year,—

(i) if the applicant has not furnished a return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, tax shall be calculated on the income disclosed in the application as if such income were the total income;

(ii) if the applicant has furnished a return in respect of the total income of that year and no assessment has been made in pursuance of such return, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income; and

(iii) if an assessment in respect of the total income of that year has been made, tax shall be calculated on the aggregate of the total income as assessed and the income disclosed in the application as if such aggregate were the total income.

(1C) The tax as calculated under sub-section (1B) shall be reduced,—

(a) in a case referred to in clause (i) of sub-section (1B), by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C;

(b) in a case referred to in clause (ii) of sub-section (1B), by the aggregate of the sums referred to in clause (a) and the tax, if any, paid by the applicant under section 140A; and

(c) in a case referred to in clause (iii) of sub-section (1B), by the aggregate of the sums and tax referred to in clause (b) as increased by the tax, if any, paid in pursuance of the assessment made in respect of the total income of that year,

and the resultant amount so arrived at shall be the additional amount of income-tax payable in respect of the income disclosed in the application relating to that year.

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

(1E) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to an assessee are seized under section 132, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.

41. In section 245D of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1A), the words and figures "under the Indian Income-tax Act, 1922, or" shall be omitted;

Amend-
ment of
section
245D.

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

"(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of income-tax is not paid within the time specified under sub-section (2A), then, whether

or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of income-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of income-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the assessee.”;

(c) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted;

(d) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

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

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 153 shall apply to any order passed under sub-section (4) or to any order of assessment, re-assessment or re-computation required to be made by the Income-tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission.”.

Amend-
ment of
section
245E.

Amend-
ment of
section
245H.

Amend-
ment of
section
245M.

42. In section 245E of the Income-tax Act, the words and figures “under the Indian Income-tax Act, 1922, or” shall be omitted with effect from the 1st day of October, 1984.

43. In section 245H of the Income-tax Act, in sub-section (1), for the words “and also from the imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

44. In section 245M of the Income-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

45. In section 246 of the Income-tax Act, in sub-section (2), with effect from the 1st day of October, 1984,—

Amend-
ment of
section
246.

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

“(d) an order of assessment made after the 30th day of September, 1984, on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A;”;

(b) after clause (f), the following clause shall be inserted, namely:—

“(ff) an order made by the Inspecting Assistant Commissioner under section 154;”.

46. In section 253 of the Income-tax Act, in sub-section (1), clause (b) shall be omitted with effect from the 1st day of October, 1984.

Amend-
ment of
section
253.

47. In section 263 of the Income-tax Act, with effect from the 1st day of October, 1984,—

Amend-
ment of
section
263.

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the removal of doubts it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include—

(a) an order of assessment made on the basis of directions issued by the Inspecting Assistant Commissioner under section 144A or section 144B; and

(b) an order made by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A.”;

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

“(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.”

48. In section 271 of the Income-tax Act, in sub-section (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1984, namely:—

Amend-
ment of
section
271.

Explanation 5.—Where in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished.

shed before the said date or, where such return has been furnished before the said date, such income has not been declared therein; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income, unless such income is, or the transactions resulting in such income are, recorded—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date,

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Commissioner before the said date.”

**Amend-
ment of
section
273.**

49. In section 273 of the Income-tax Act, in sub-section (2), the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely.—

“*Explanation 2.*—When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under this section shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.”

**Amend-
ment of
section
273A.**

50. In section 273A of the Income-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing belonging to a person are seized under section 132 and within fifteen days of such seizure, the person makes a full and true disclosure of his income to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Income-tax Officer of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, a disclosure of such particulars.”;

(b) in sub-section (2), in clause (a), for the words “fifty thousand rupees”, the words “one hundred thousand rupees” shall be substituted;

(c) to sub-section (4), the following proviso shall be added, namely:—

"Provided that where the amount of any penalty payable under this Act or, where such application relates to more than one penalty, the aggregate amount of such penalties exceeds one hundred thousand rupees, no order reducing or waiving the amount or compounding any proceeding for its recovery under this sub-section shall be made by the Commissioner except with the previous approval of the Board."

51. In section 279 of the Income-tax Act, in sub-section (1), after the word, figures and letter "section 276D," the word, figures and letters "section 276DD," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984.

Amend-
ment of
section
279.

52. In section 288 of the Income-tax Act, sub-section (3) shall be omitted with effect from the 1st day of October, 1984.

Amend-
ment of
section
288.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

of 1957.

53. In section 4 of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), in sub-section (1), in clause (a),—

Amend-
ment of
section 4.

(a) in sub-clause (v), the word "or" shall be inserted at the end;

(b) after sub-clause (v), the following sub-clause shall be inserted, namely:—

"(vi) by a person or association of persons to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the immediate or deferred benefit of the son's wife, or the son's minor child, of such individual or both,".

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

Amend-
ment of
section 5.

(a) in sub-section (1),—

(i) after clause (xxviiia) [directed to be inserted by item (3) of sub-clause (i) of clause (a) of section 34 of the Finance Act, 1984], the following clause shall be inserted, namely:—

1984.

"(xxviib) any deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;".

(ii) in clause (xxxiii), after the words "being a person of Indian origin", the words and brackets "or a citizen of India (hereafter in this clause referred to as such person)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1977;

(b) in sub-section (1A), after the brackets, figures and letter "(xxviii)", the brackets, figures and letter "(xxviiib)" shall be inserted;

(c) in sub-section (3),—

(i) after the brackets, figures and letter "(xxviii)", the brackets, figures and letter "(xxviiib)" shall be inserted;

(ii) in the *Explanation*, for the words "thirty days", the words "sixty days" shall be substituted.

Substitution of new section for section 8A.

Powers of Commissioner respecting specified areas, cases, persons, etc.

55. In the Wealth-tax Act, for section 8A, the following section shall be substituted with effect from the 1st day of October, 1984, namely:—

"8A. (1) The Commissioner may, by general or special order in writing, direct that—

(a) the powers conferred on the Wealth-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner;

(b) such of the functions assigned to the Wealth-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases, or classes of cases or specified persons or classes of persons, be performed by an Inspector of Wealth-tax or any member of the ministerial staff appointed to work under the Commissioner or any other wealth-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein:

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Wealth-tax Officer mentioned in the following provisions of this Act, namely, sections 15B, 16, 17, 18, 20, 22, 24, 32, 37 and 37A.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(b) where such order is made under clause (b) of the said sub-section, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be deemed to include references to the Inspector of Wealth-tax or the member of the ministerial staff specified in such order."

56. In section 17A of the Wealth-tax Act, in *Explanation 1*, after clause (ii), the following clause shall be inserted with effect from the 1st day of October, 1984, namely:—

“(iiia) the period (not exceeding sixty days) commencing from the date on which the Wealth-tax Officer received the declaration under sub-section (1) of section 18C and ending with the date on which the order under sub-section (3) of that section is made by him, or”.

57. In section 18 of the Wealth-tax Act, in sub-section (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1984, namely:—

Explanation 5.—Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets represent or form part of his net wealth,—

(a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or, where such return has been furnished before the said date, such assets have not been declared in such return; or

(b) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of such assets or furnished inaccurate particulars of such assets, unless such assets are recorded,—

(i) in a case falling under clause (a), before the date of the search; and

(ii) in a case falling under clause (b), on or before such date, in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Commissioner before the said date.”.

58. In section 18B of the Wealth-tax Act, in sub-section (1), with effect from the 1st day of October, 1984,—

(a) the *Explanation* shall be numbered as *Explanation 1*; and

(b) after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—Where any books of account or other documents belonging to a person are seized under section 37A and within fifteen days of such seizure, the person makes a full and true disclosure of his net wealth to the Commissioner, such person shall, for the purposes of clause (b) of this sub-section, be deemed to have made, prior to the detection by the Wealth-tax Officer of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith, a disclosure of such particulars.”.

Amend-
ment of
section
17A.

Amend-
ment of
section 18.

Amend-
ment of
section
18 B.

Amendment of new Chapter IV A.

Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

59. In the Wealth-tax Act, after Chapter IV, the following Chapter shall be inserted with effect from the 1st day of October, 1984, namely:—

CHAPTER IVA

SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

18C. (1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the Wealth-tax Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court on a reference under section 27 or in appeal before the Supreme Court under section 29 (such case being hereafter in this section referred to as the other case), he may furnish to the Wealth-tax Officer or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the Wealth-tax Officer or the appellate authority, as the case may be, agrees to apply to the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the Wealth-tax Officer on the correctness of the claim made by the assessee and, where the Wealth-tax Officer makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The Wealth-tax Officer or the appellate authority, as the case may be, may, by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the Wealth-tax Officer or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or for a reference before the High Court or the Supreme Court under section 27 or in appeal before the Supreme Court under section 29.

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Wealth-tax Officer or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

Explanation.—In this section,—

(a) "appellate authority" means the Appellate Assistant Commissioner or the Commissioner (Appeals) or the Appellate Tribunal;

(b) "case", in relation to an assessee, means any proceeding under this Act for the assessment of the net wealth of the assessee or for the imposition of any penalty on him.

60. In section 22A of the Wealth-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of October, 1984, namely:—

(a) "case" means any proceeding under this Act for the assessment or re-assessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or re-assessment, which may be pending before a wealth-tax authority on the date on which an application under sub-section (1) of section 22C is made;.

61. In section 22C of the Wealth-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of October, 1984, namely:—

(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the Wealth-tax Officer, the manner in which such wealth has been derived, the additional amount of wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 22D, the additional amount of wealth-tax payable in respect of the wealth disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the wealth disclosed in the application relates to only one assessment year,—

(a) if the applicant has not furnished a return in respect of the net wealth for that year and no assessment has been made in respect of the net wealth for that year, wealth-tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth;

(b) if the applicant has furnished a return in respect of the net wealth for that year and no assessment has been made in pursuance of such return, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth; and

(c) if an assessment in respect of the net wealth for that year has been made, wealth-tax shall be calculated on the aggregate of the net wealth as assessed and the wealth disclosed in the application as if such aggregate were the net wealth.

Amend-
ment
of section
22A.

Amend-
ment of
section
22C.

(1C) The wealth-tax as calculated under sub-section (1B) shall,—

(a) in a case referred to in clause (d) of sub-section (1B), be reduced by the wealth-tax, if any, paid by the applicant under section 15B; and

(b) in a case referred to in clause (c) of sub-section (1B), be reduced by the aggregate of the wealth-tax referred to in clause (a) and the wealth-tax, if any, paid by the applicant in pursuance of the assessment made in respect of the net wealth for that year,

and the amount referred to in clause (a) of sub-section (1B) or, as the case may be, the resultant amount arrived at under clause (a) or clause (b), as the case may be, shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application relating to that year.

(1D) Where the wealth disclosed in the application relates to more than one assessment year, the additional amount of wealth-tax payable in respect of the wealth disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under sub-section (1) shall be the additional amount of wealth-tax payable in respect of the wealth disclosed in the application.

(1E) Where any books of account or other documents belonging to an assessee are seized under section 37A, the assessee shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and twenty days from the date of the seizure.

62. In section 22D of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

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

"(2A) Subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1), pay the additional amount of wealth-tax payable on the wealth disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of wealth-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of wealth-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent. per

Amend-
ment of
section
22D.

annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) Where the additional amount of wealth-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of wealth-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount of wealth-tax may be imposed and recovered, in accordance with the provisions of Chapter VII, by the Wealth-tax Officer having jurisdiction over the assessee.”;

(b) in sub-section (6), for the words “tax, penalty or interest”, the words “tax or penalty” shall be substituted;

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.”;

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

“(8) For the removal of doubts, it is hereby declared that nothing contained in section 17A shall apply to any order passed under sub-section (4) or to any order of assessment or re-assessment required to be made by the Wealth-tax Officer in pursuance of any directions contained in such order passed by the Settlement Commission.”.

63. In section 22H of the Wealth-tax Act, in sub-section (1), for the words “and also from the imposition of any penalty”, the words and brackets “and also (either wholly or in part) from the imposition of any penalty” shall be substituted with effect from the 1st day of October, 1984.

Amendment of section 22H.

64. In section 22M of the Wealth-tax Act, in sub-section (1), after the words “on withdrawing such appeal from the Appellate Tribunal”, the words, figures and letters “before the 1st day of October, 1984” shall be inserted with effect from the 1st day of October, 1984.

Amendment of section 22M.

65. In section 25 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

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

Amendment of section 25.

Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Wealth-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Wealth-tax Officer conferred

on, or assigned to, him under clause (a) of sub-section (1) of section 8A or under sub-section (1) of section 8AA";

(b) in sub-section (3), for the words "from the date of the order sought to be revised", the words "from the end of the financial year in which the order sought to be revised was passed" shall be substituted.

Amend-
ment of
section
31.

66. In section 31 of the Wealth-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (2), for the words "twelve per cent.", the words "fifteen per cent." shall be substituted;

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

"(2A) Notwithstanding anything contained in sub-section (2), the Board may reduce or waive the amount of interest payable by an assessee under the said sub-section if, on the recommendation made by the Commissioner in this behalf, it is satisfied that—

(i) payment of such amount would cause genuine hardship to the assessee;

(ii) default in the payment of the amount, on which interest was payable under the said sub-section was due to circumstances beyond the control of the assessee; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him."

Amend-
ment of
section
34A.

67. In section 34A of the Wealth-tax Act, for the words "twelve per cent.", the words "fifteen per cent." shall be substituted with effect from the 1st day of October, 1984.

Insert-
tion of
new
section
34ACC.

68. After section 34AC of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely:—

Furnish-
ing of
particu-
lars in
certain
cases.

"34ACC. Where any person who is registered as a valuer under section 34AB or who has made an application for registration as a valuer under that section is, at any time thereafter,—

(a) convicted of any offence and sentenced to a term of imprisonment; or

(b) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of architecture, accountancy, or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, found guilty of misconduct in his professional capacity, by such association or institution,

he shall immediately after such conviction or, as the case may be, finding, intimate the particulars thereof to the Board."

69. In section 35 of the Wealth-tax Act, in sub-section (7), with effect from the 1st day of October, 1984,—

(i) in clause (a), for the words "from the date of the order passed in the first appeal or revision", the words "from the end of the financial year in which the order was passed in the first appeal or revision" shall be substituted;

(ii) in clause (b), for the words "from the date of the order sought to be amended", the words "from the end of the financial year in which the order sought to be amended was passed" shall be substituted.

70. After section 35E of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1984, namely:—

"**35EE.** If a person referred to in section 34ACC fails, without reasonable cause or excuse, to intimate to the Board the particulars of conviction or finding referred to in the said section, he shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine."

Amendment
of section
35.

Insertion
of new
section
35EE.

Failure to
furnish
particulars under
section
34ACC.

[1958.]

71. In section 2 of the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), in clause (va), the words "not involving the carrying on of any activity for profit" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1984.

Amend-
ment of
section
20.

72. In section 5 of the Gift-tax Act, in sub-section (1), after clause (xv), the following clause shall be inserted, namely:—

Amend-
ment of
section
5.

"(xvi) to any other person, up to a maximum of rupees five hundred in value in one previous year."

73. In the Gift-tax Act, for section 7A, the following section shall be substituted with effect from the 1st day of October, 1984, namely:—

Substitu-
tion of
new sec-
tion for
section 7A.

"**7A. (1)** The Commissioner may, by general or special order in writing, direct that—

Powers
of Commis-
sioner
respecting
specified
areas,
cases,
persons
etc.

(a) the powers conferred on the Gift-tax Officer by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner;

(b) such of the functions assigned to the Gift-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area or specified cases or classes of cases or specified persons or classes of persons, be performed by an Inspector of Gift-tax or any member of the ministerial staff appointed to work under the Commissioner or any other gift-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein:

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (b) in relation to the functions of a Gift-tax Officer mentioned in the following provisions of this Act, namely, sections 15, 16, 17, 19A, 20, 21, 21A, 23, 32, 33 and 36.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(a) where such order is made under clause (a) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to be references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(b) where such order is made under clause (b) of the said sub-section, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be deemed to include references to the Inspector of Gift-tax or the member of the ministerial staff specified in such order.”

Amend-
ment of
section 24.

74. In section 24 of the Gift-tax Act, with effect from the 1st day of October, 1984,—

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

“*Explanation.*—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by a Gift-tax Officer shall include an order passed by an Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of a Gift-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 7A or under sub-section (1) of section 7AA.”;

(b) in sub-section (3), for the words “from the date of the order sought to be revised”, the words “from the end of the financial year in which the order sought to be revised was passed” shall be substituted.

Amend-
ment of
sections 32
and 33A.

75. In sections 32 and 33A of the Gift-tax Act, for the words “twelve per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

Amend-
ment of
section 34.

76. In section 34 of the Gift-tax Act, in sub-section (7), for the words “from the date of the order sought to be amended”, the words “from the end of the financial year in which the order sought to be amended was passed” shall be substituted with effect from the 1st day of October, 1984.

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

Amend-
ment of
sections 7B
to 7D.

77. In sections 7B to 7D of the Companies (Profits) Surtax Act, 1964 [hereafter in this Chapter referred to as the Companies (Profits) Surtax Act], for the words “twelve per cent.”, wherever they occur, the words “fifteen per cent.” shall be substituted with effect from the 1st day of October, 1984.

7 of 1964.

78. In section 13 of the Companies (Profits) Surtax Act, in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984. Amend-
ment of
section 13.

79. In section 14 of the Companies (Profits) Surtax Act, for the words "from the date of the order passed under the aforesaid sections of the Income-tax Act", the words "from the end of the financial year in which the order under the aforesaid sections of the Income-tax Act was passed" shall be substituted with effect from the 1st day of October, 1984. Amend-
ment of
section 14.

80. In section 16 of the Companies (Profits) Surtax Act, with effect from the 1st day of October, 1984,— Amend-
ment of
section 16.

(a) in sub-section (1), the following Explanation shall be inserted at the end, namely:—

"Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers or in performance of the functions of an Income-tax Officer conferred on, or assigned to, him under clause (a) of sub-section (1) of section 125 or under sub-section (1) of section 125A of the Income-tax Act as applied by section 18 of this Act."

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

"(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed."

CHAPTER VI

AMENDMENT TO THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS) ACT, 1974

38 of 1974.

81. In section 13 of the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974, in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984. Amend-
ment of
section 13.

45 of 1974.

82. In section 17 of the Interest-tax Act, 1974 (hereafter in this Chapter referred to as the Interest-tax Act), in sub-section (1), for the words "within four years of the date on which such order was passed", the words "within four years from the end of the financial year in which such order was passed" shall be substituted with effect from the 1st day of October, 1984. Amend-
ment of
section 17.

Amend-
ment of
section
19.

83. In section 19 of the Interest-tax Act, with effect from the 1st day of October, 1984,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

"Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, an order passed by the Income-tax Officer shall include an order passed by the Inspecting Assistant Commissioner in exercise of the powers of an Income-tax Officer conferred on him under clause (a) of sub-section (1) of section 125 of the Income-tax Act as applied by section 21 of this Act."

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

"(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed."

CHAPTER VIII

MISCELLANEOUS

Applicabi-
lity of
revised
rate of
interest.

84. For the removal of doubts, it is hereby declared that where interest is payable under—

(a) any provision of the Income-tax Act, 1961 referred to in section 24 of this Act; or

(b) section 31 or section 34A of the Wealth-tax Act, 1957; or

(c) section 32 or section 33A of the Gift-tax Act, 1958; or

(d) sections 7B to 7D and section 18 of the Companies (Profits) Surtax Act, 1964; or

(e) section 21 of the Interest-tax Act, 1974,

in respect of any period commencing on or before the 30th day of September, 1984 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of fifteen per cent. per annum.

THE LAND ACQUISITION (AMENDMENT) ACT, 1984

No. 68 OF 1984

gut [24th September, 1984.]

An Act further to amend the Land Acquisition Act, 1894.

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

1. This Act may be called the Land Acquisition (Amendment) Act, 1984. Short title.

1 of 1894. ~~1 of 1894.~~ 2. In sub-section (2) of section 1 of the Land Acquisition Act, 1894 Amend-
ment of
section 1. (hereinafter referred to as the principal Act), for the words, figures and letters "the territories which, immediately before the 1st November, 1956, were comprised in Part B States; and", the words "the State of Jammu and Kashmir." shall be substituted.

3. In section 3 of the principal Act,— Amend-
ment of
section 3.

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

'(aa) the expression "local authority" includes a town planning authority (by whatever name called) set up under any law for the time being in force';

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

'(cc) the expression "corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in section 617 of the Companies Act, 1956, a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one per centum of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments';

1 of 1956.

21 of 1860.

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

'(e) the expression "Company" means—

(i) a company as defined in section 3 of the Companies Act, 1956, other than a Government company referred to in clause (cc);

(ii) a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc);

(iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc);

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

'(f) the expression "public purpose" includes—

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority;

of 1882.
of 1908.

(viii) the provision of any premises or building for locating a public office,

but does not include acquisition of land for Companies;

(e) in clause (g), in the proviso, in clause (iii), for the words and figures "Chapter XXXI of the Code of Civil Procedure", the words and figures "Order XXXII of the First Schedule to the Code of Civil Procedure, 1908" shall be substituted.

4. In sub-section (1) of section 4 of the principal Act,—

(a) after the words "any public purpose", the words "or for a Company" shall be inserted;

(b) after the words "Official Gazette", the words "and in two daily newspapers circulating in that locality of which at least one shall be in the regional language" shall be inserted;

(c) after the words "in the said locality", the brackets and words "(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)" shall be inserted.

Amend-
ment of
section 4.

5. In section 5A of the principal Act,—

(a) in sub-section (1), for the words "within thirty days after the issue of the notification", the words "within thirty days from the date of the publication of the notification" shall be substituted;

(b) in sub-section (2), for the words "either in person", the words "in person or by any person authorised by him in this behalf" shall be substituted.

Amend-
ment of
section
5A.

6. In section 6 of the principal Act,—

(a) in sub-section (1),—

(1) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),—

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967, but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification;"

of 1967.

Amend-
ment of
section 6.

(2) the following Explanations shall be inserted at the end, namely:—

"Explanation 1.—In computing any of the periods referred to in the first proviso, the period during which any action

or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2.—Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.”;

(b) in sub-section (2), for the words “, and shall state”, the words and brackets “and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state” shall be substituted.

Amend-
ment of
section 9.

7. In section 9 of the principal Act, in sub-section (4), for the words and figures “registered under Part III of the Indian Post Office Act, 1866”, the words and figures “registered under sections 28 and 29 of the Indian Post Office Act, 1898” shall be substituted.

14 of 1866.

6 of 1898

Amend-
ment of
section 11.

8. Section 11 of the principal Act shall be re-numbered as sub-section (1) of that section, and,—

(a) in sub-section (1) as so re-numbered, the following provisos shall be inserted at the end, namely:—

“Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf:

Provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.”;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

of 1908.

(4) Notwithstanding anything contained in the Registration Act, 1908, no agreement made under sub-section (2) shall be liable to registration under that Act.”.

9. After section 11 of the principal Act, the following section shall be inserted, namely:—

“11A. The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.—In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.”.

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

“13A. (1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue.”.

of 1882.
of 1908.

11. In section 14 of the principal Act, for the words “Code of Civil Procedure”, the words and figures “Code of Civil Procedure, 1908” shall be substituted.

Amend-
ment of
section 14.

12. After section 15 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
45A.

“15A. The appropriate Government may at any time before the award is made by the Collector under section 11 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any

Power to
call for
records,
etc.

finding or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:

Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard."

Amend-
ment of
section
17.

13. In section 17 of the principal Act,—

(a) in sub-section (1), for the words "take possession of any waste or arable land needed for public purposes or for a Company", the words "take possession of any land needed for a public purpose" shall be substituted;

(b) in sub-section (2), after the words "access to any such station," the words "or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity," shall be inserted;

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

"(3A) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall, without prejudice to the provisions of sub-section (3),—

(a) tender payment of eighty per centum of the compensation for such land as estimated by him to the persons interested entitled thereto, and

(b) pay it to them, unless prevented by some one or more of the contingencies mentioned in section 31, sub-section (2),

and where the Collector is so prevented, the provisions of section 31, sub-section (2) (except the second proviso thereto), shall apply as they apply to the payment of compensation under that section.

(3B) The amount paid or deposited under sub-section (3A), shall be taken into account for determining the amount of compensation required to be tendered under section 31, and where the amount so paid or deposited exceeds the compensation awarded by the Collector under section 31, the excess may, unless refunded within three months from the date of the Collector's award, be recovered as an arrear of land revenue.";

(d) in sub-section (4), for the words "after the publication of the notification", the words "after the date of the publication of the notification" shall be substituted.

Amend-
ment of
section 19.

14. In section 19 of the principal Act, in sub-section (1),—

(a) in clause (c), the word "and" occurring at the end shall be omitted;

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

“(cc) the amount paid or deposited under sub-section (3A) of section 17; and”.

15. In section 23 of the principal Act,—

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

“(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.—In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.”;

(b) in sub-section (2), for the words “fifteen per centum”, the words “thirty per centum” shall be substituted.

16. In section 24 of the principal Act,—

(a) in clause *sixthly*, the word “or” occurring at the end shall be omitted;

(b) in clause *seventhly*, the word “or” shall be inserted at the end, and after the clause as so amended, the following clause shall be inserted, namely:—

“*eighthly*, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.”.

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

“25. The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.”.

Amend-
ment of
section 23.

Amend-
ment of
section 24.

Substi-
tution of
new sec-
tion for
section 25.

Amount of
compen-
sation
awarded
by Court
not to be
lower
than the
amount
awarded
by the
Collector.

Amend-
ment of
section
28.

18. In section 28 of the principal Act,—

(a) for the words "six per centum", the words "nine per centum" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry."

Insertion
of new
section
28A.

Re-deter-
mination
of the
amount of
compen-
sation on
the basis
of the
award of
the Court.

19. In Part III of the principal Act, after section 28, the following section shall be inserted, namely:—

"28A. (1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18."

Amend-
ment of
section
34.

20. In section 34 of the principal Act,—

(a) for the words "six per centum", the words "nine per centum" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry".

21. Section 38 of the principal Act shall be omitted.

22. In section 38A of the principal Act, for the words, figures and letter "sections 5A, 6, 7, 17 and 50", the words, figures and letter "sections 4, 5A, 6, 7 and 50" shall be substituted.

23. In section 39 of the principal Act,—

(a) for the words, figures and brackets "sections 6 to 37 (both inclusive)", the words, figures and brackets "sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive)" shall be substituted;

(b) after the words "for any Company", the words "under this Part" shall be inserted.

14 of 1882.
5 of 1908.

24. In section 40 of the principal Act, in sub-section (3), for the words "Code of Civil Procedure", the words and figures "Code of Civil Procedure, 1908" shall be substituted.

14 of 1866.
6 of 1898.

25. In sub-section (3) of section 45 of the principal Act, in the proviso for the words and figures "registered under Part III of the Indian Post Office Act, 1866", the words and figures "registered under sections 28 and 29 of the Indian Post Office Act, 1898" shall be substituted.

26. In section 46 of the principal Act, for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

16 of 1908.

27. After section 51 of the principal Act, the following section shall be inserted, namely:—

51A. In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908, including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document."

14 of 1882.
5 of 1908.

28. In section 53 of the principal Act, for the words "Code of Civil Procedure", the words and figures "Code of Civil Procedure, 1908" shall be substituted.

29. In sub-section (1) of section 55 of the principal Act,—

(a) in the second proviso, 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;

Omission
of section
38.

Amend-
ment of
section
38A.

Amend-
ment of
section
39.

Amend-
ment of
section
40.

Amend-
ment of
section
45.

Amend-
ment of
section
46.

Insertion of
new sec-
tion 51A.

Acceptance
of certified
copy as
evidence.

Amend-
ment of
section 53.

Amend-
ment of
section
55.

(b) after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that every such rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.”

Transi-
tional
provisions.

30. (1) The provisions of sub-section (1A) of section 23 of the principal Act, as inserted by clause (a) of section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—

(a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People], in which no award has been made by the Collector before that date;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the Collector before the commencement of this Act.

(2) The provisions of sub-section (2) of section 23 and section 28 of the principal Act, as amended by clause (b) of section 15 and section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the principal Act after the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People] and before the commencement of this Act.

(3) The provisions of section 34 of the principal Act, as amended by section 20 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,—

(a) every case in which possession of any land acquired under the principal Act had been taken before the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People], and the amount of compensation for such acquisition had not been paid or deposited under section 31 of the principal Act until such date, with effect on and from that date; and

(b) every case in which such possession had been taken on or after that date but before the commencement of this Act without the amount of compensation having been paid or deposited under the said section 31, with effect on and from the date of taking such possession.

THE WAKF (AMENDMENT) ACT, 1984

No. 69 OF 1984

[10th October, 1984.]

An Act further to amend the Wakf Act, 1954.

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

1. (1) This Act may be called the Wakf (Amendment) Act, 1984.

(2) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for the different provisions of this Act and for different States or for different areas within a State, and any reference in any provision to the commencement of this Act shall in relation to any State or area therein be construed as a reference to the commencement of that provision in such State or area.

29 of 1954.

2. In section 1 of the Wakf Act, 1954 (hereinafter referred to as the principal Act), in sub-section (3), for the first proviso, the following proviso shall be substituted, namely:—

"Provided that, as soon as may be, after the commencement of the Wakf (Amendment) Act, 1984, the Central Government may, by notification in the Official Gazette, appoint a date on which the provisions of this Act, as amended by the Wakf (Amendment) Act, 1984, shall come into force in the States of Uttar Pradesh and West Bengal and in those parts of the States of Gujarat and Maharashtra in which the provisions of this Act do not apply, and different dates may be appointed for different States or for different areas, and for the different provisions of this Act, as so amended, and, on and from the date so appointed, the corresponding law, applicable to wakfs, in force in that State or in any part thereof, or, as the case may be, in such area, shall cease to operate, and, on such cesser, such corresponding law shall be deemed to have been repealed by an Act enacted by the Legislature of that State, but such cesser shall not affect the previous operation of such corresponding law, and subject thereto, anything done or any action taken in exercise of any power conferred by or under any such corresponding law shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as amended by the Wakf (Amendment) Act, 1984, as if this Act, as so amended, were in force on the date on which such thing was done or action was taken:."

Short title and commencement.

Amendment of section 1.

Amend
ment
of sec-
tion 3.

3. In section 3 of principal Act,—

(i) clause (d) shall be omitted;

(ii) in clause (f),—

(a) after the words "to be the mutawalli of a wakf and includes any", the words "person who is a mutawalli of a wakf by virtue of any custom or who is a" shall be inserted;

(b) for the words "any person or Committee for the time being managing or administering any wakf property as such", the words "any person, Committee or Corporation for the time being managing or administering any wakf or wakf property:

Provided that no member of a Committee or Corporation shall be deemed to be a mutawalli unless such member is an office bearer of such Committee or Corporation" shall be substituted;

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

(g) "net annual income", in relation to a wakf, means the net annual income determined in accordance with the provisions of the *Explanations* to sub-section (1) of section 46;;

(iv) after clause (k), the following clauses shall be inserted, namely:—

(ka) "Survey Commissioner" means the Survey Commissioner of Wakfs appointed under sub-section (1) of section 4 and includes any additional or assistant survey commissioner of Wakfs;

(kb) "Tribunal", in relation to any area, means the Tribunal, constituted under sub-section (1) of section 55, having jurisdiction in relation to that area;;

(v) in clause (l),—

(a) in the opening portion, after the words "person professing Islam", the words "or any other person" shall be inserted;

(b) in sub-clause (i), after the words "a wakf by user" the words "but such wakf shall not cease to be a wakf by reason only of the user having ceased irrespective of the period of such cesser" shall be inserted;

(c) in sub-clause (ii), after the words "mashrut-ul-khidmat", the words ", muafies, khairati, qazi services, madad-mash" shall be inserted;

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

"(iii) a wakf-alal-aulad;"

(e) to clause (l), the following proviso shall be added, namely:—

“Provided that in the case of a dedication by a person not professing Islam, the Wakf shall be void if, on the death of such person, any objection to such dedication is raised by one or more of his legal representatives;”;

(vi) after clause (l), the following clause shall be inserted, namely:—

‘(la) “Wakf Commissioner” means the Wakf Commissioner appointed under sub-section (1) of section 21;’.

4. In section 4 of the principal Act,—

(i) for the word “Commissioner”, wherever it occurs, the words “Survey Commissioner” shall be substituted;

(ii) for the word “commissioners”, wherever it occurs, the words “Survey Commissioners” shall be substituted;

(iii) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The State Government may, by notification in the Official Gazette, direct the Survey Commissioner to make a second or subsequent survey of wakf properties in the State and the provisions of sub-sections (2), (3), (4) and (5) shall apply to such survey as they apply to a survey directed under sub-section (1):

Provided that no such second or subsequent survey shall be made until the expiry of a period of twenty years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (3).”

5. In section 5 of the principal Act, in sub-section (2), for the words “existing in the State, or as the case may be, the part of the State”, the words “in the State, or as the case may be, the part of the State, whether in existence at the commencement of this Act or coming into existence thereafter,” shall be, and shall be deemed always to have been, substituted.

6. In section 6 of the principal Act,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section and section 6A, the expression “any person interested therein”, occurring in sub-section (1) of this section and in sub-section (1) of section 6A, shall, in relation to any property specified as wakf property in a list of wakfs published, under sub-section (2) of section 5, after the commencement of the Wakf (Amendment) Act, 1984, shall include also every person who, though not interested in the wakf concerned, is interested in such property and to whom a reasonable opportunity had been afforded to represent his case

Amend-
ment
of sec-
tion 4.

Amend-
ment
of sec-
tion 5.

Amend-
ment of
section 6.

by notice served on him in that behalf during the course of the relevant inquiry under section 4; ;

(b) in sub-section (3), for the word "Commissioner", the words "Survey Commissioner" shall be substituted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) On and from the commencement of the Wakf (Amendment) Act, 1984 in a State, no suit or other legal proceeding shall be instituted or commenced in a civil court in that State in relation to any question referred to in sub-section (1)."

**Inser-
tion of
new sec-
tion 6A.**

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

**Power
of Tribu-
nal to
deter-
mine
disputes
regard-
ing
wakfs.**

"6A. (1) If, after the commencement of the Wakf (Amendment) Act, 1984, any question arises whether a particular property specified as wakf property in a list of wakfs published under sub-section (2) of section 5 is wakf property or not, or whether a wakf specified in such list is a Shia Wakf or a Sunni Wakf, the Board or the mutawalli of the wakf, or any person interested therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question and the decision of the Tribunal in respect of such matter shall be final:

Provided that—

(a) in the case of the list of wakfs relating to any part of the State and published or purporting to have been published after the commencement of the Wakf (Amendment) Act, 1984, no such application shall be entertained after the expiry of one year from the date of publication of the list of wakfs under sub-section (2) of section 5; and

(b) in the case of the list of wakfs relating to any part of the State and published or purporting to have been published at any time within a period of one year immediately preceding the commencement of the Wakf (Amendment) Act, 1984, such an application may be entertained by the Tribunal within the period of one year from such commencement:

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not re-open such question.

(2) Except where the Tribunal has no jurisdiction by reason of the provisions of sub-section (5) no proceeding under this section in respect of any wakf shall be stayed by any court, tribunal or other authority by reason only of the pendency of any suit, application or of any appeal or other proceeding arising out of any such suit, application, appeal or other proceeding.

(3) The Wakf Commissioner shall not be made a party to any application under sub-section (1).

(4) The list of wakfs published under sub-section (2) of section 5, and where any such list is modified in pursuance of a decision of the Tribunal under sub-section (1), the list as so modified, shall be final.

(5) The Tribunal shall not have jurisdiction to determine any matter which is the subject-matter of any suit or proceeding instituted or commenced in a civil court under sub-section (1) of section 6, before the commencement of the Wakf (Amendment) Act, 1984, or which is the subject-matter of any appeal from the decree passed before such commencement in any such suit or proceeding or of any application for revision or review arising out of such suit, proceeding or appeal, as the case may be.”

8. In sub-section (1) of section 7 of the principal Act, for the word “Commissioner”, the words “Survey Commissioner” shall be substituted.

9. In sub-section (3) of section 8D of the principal 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.

10. After sub-section (2) of section 9 of the principal Act, the following sub-section shall be inserted, namely:—

“(3) It shall be lawful for the Board to so re-organise its administrative set-up in the State as to ensure better administration of the wakfs in the State.”

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

‘10. (1) The Board shall, in the case of a State, as also in the case of the Union territory of Delhi, consist of—

(a) four members, of whom two shall be elected from among themselves by such of the Muslim members of Parliament as have been elected thereto from that State or the Union territory of Delhi, as the case may be, and the other two shall be elected from among themselves by such of the Muslim members of the State Legislature as have been elected thereto, and such election shall be held in accordance with the system of proportional representation by means of a single transferable vote in such manner as may be prescribed:

Provided that where the number of Muslim members elected to Parliament from a State, or, as the case may be, the Union territory of Delhi, is only one, or where the number of Muslim members elected to a State Legislature is only one, the Muslim member who has been elected to Parliament from the State or the Union territory of Delhi, as the case may be, and the Muslim member who has been elected to the State Legislature, shall become, by virtue of such election, member of the Board and the remainder of the membership of the Board under this clause shall be filled up by the State Government by appointing suitable persons as members of the Board:

Provided further that where no Muslim has been elected from the State or the Union territory of Delhi to Parliament, or, as the case may be, to the State Legislature, the vacancy in the membership of the Board under this clause shall be filled up

Amend-
ment
of sec-
tion 7.

Amend-
ment of
section
8D.

Amend-
ment of
section 9.

Substi-
tution
of sec-
tion 10.

Composi-
tion
of the
Board.

by the State Government by appointing suitable persons as members of the Board:

Provided also that in determining the number of Shia members or Sunni members of the Board, the State Government shall have regard to the number and value of the Shia Wakfs and Sunni Wakfs to be administered by the Board and the appointment of the members shall be made, so far as may be, in accordance with such determination;

(b) five members, to be appointed by the State Government, of whom—

(i) one shall be a Shia in the States where there is no Shia Board;

(ii) one shall be a person who, in the opinion of that Government, is a recognised scholar in Islamic theology;

(iii) one shall be appointed from among the members of any Muslim organisation in the State; and

(iv) two shall be persons possessing administrative experience and knowledge of law;

(c) one mutawalli, to be appointed by the State Government; and

(d) the Wakf Commissioner, who shall be, *ex officio*, Member-Secretary of the Board.

Explanation.—The references to "State Legislature" in this sub-section shall be construed in relation to the Union territory of Delhi as references to the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966.

19 of 1966.

(2) The Board shall, in the case of a Union territory other than the Union territory of Delhi, consist of—

(a) five members, to be appointed by the Central Government from amongst the categories of persons specified in clause (b) of sub-section (1), and, for this purpose, the provisions of the said clause shall apply to the composition of the Board under this sub-section as they apply to the composition of the Board under sub-section (1);

(b) one mutawalli to be appointed by the Central Government; and

(c) the Wakf Commissioner, who shall be, *ex officio*, Member-Secretary of the Board.

(3) Whenever the Board is constituted or reconstituted, as the case may be, the members of the Board present at a meeting convened for the purpose by the Wakf Commissioner, shall elect one from amongst themselves (other than the Wakf Commissioner) as the Chairman of the Board.

Omission
of sec-
tion 11.

12. Section 11 of the principal Act shall be omitted.

Amend-
ment of
section 13.

13. In section 13 of the principal Act, for clauses (d) and (e), the following clauses shall be substituted, namely:—

"(d) if he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(e) if he has been, on a previous occasion,—

(i) removed from his office as a member or as a mutawalli, or

(ii) removed by an order of a competent court or tribunal from any position of trust, either for mismanagement or for corruption.”.

14. In section 15 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “general superintendence of all wakfs in a State shall vest”, the words “general superintendence of all wakfs in a State in relation to all matters, except those which are expressly required by this Act to be dealt with by the Wakf Commissioner, shall vest” shall be substituted;

(ii) after the proviso, the following *Explanation* shall be inserted, namely:—

Explanation.—For the removal of doubts it is hereby declared that in this sub-section, “wakf” includes a wakf in relation to which any scheme has been made by any court of law, whether before or after the commencement of the Wakf (Amendment) Act, 1984;.

(b) in sub-section (2),—

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

“(b) to ensure that the income and other property of a wakf are applied to the objects and for the purposes for which that wakf was created or intended;”;

(ii) clause (d) shall be omitted;

(iii) in sub-clause (iii) of clause (e), for the words “or as nearly as practicable similar, to the original object”, the words “or nearly similar, to the original object, or for the benefit of the poor or for the purpose of promotion of knowledge and learning in the Muslim community” shall be substituted;

(iv) in the *Explanation*, for the words “shall be exercised”, the words “shall be exercised under sub-section (1)” shall be substituted;

(v) clauses (f) and (h) shall be omitted;

(vi) in clause (j), for the words, figures and letter “or lease, as required by section 36A”, the words “or lease, in accordance with the provisions of this Act” shall be substituted;

(vii) clauses (l), (m) and (n) shall be omitted;

(c) in sub-section (3),—

(i) the words, brackets, letter and figure “settled any scheme of management under clause (d) of sub-section (2) or” shall be omitted;

Amend-
ment
of sec-
tion 15.

(ii) for the words "or affected by such settlement or direction", the words "or affected by such direction" shall be substituted;

(iii) for the words "setting aside such settlement or directions", the words "setting aside such directions" shall be substituted.

15. After section 15 of the principal Act, the following sections shall be inserted, namely:—

Inser-
tion of
new sec-
tions 15A,
15B, 15C
and 15D.

Power
to deve-
lop urban
land
which
is wakf
property.

"15A. (1) Where the Board is of opinion that any urban land which is wakf property, and which is not in the possession of the mutawalli of the wakf, and in relation to which no process of acquisition has been commenced under any law for the time being in force relating to the acquisition of land, and which has not vested in the State under any law for the time being in force relating to land reforms (hereinafter referred to as the specified urban land) offers a potential for the development of such land for land uses, such as, the establishment of any shopping centre or market or for the construction of residential flats or for any other commercial uses and that the proposed development of the use of such land is in accordance with any land uses specified, under any law for the time being in force, in any Master Plan or other Plan, if any, prepared by any local or other statutory authority in relation to the area in which such specified urban land is situate, it may make an application to the State Government specifying therein, the nature of the work which is intended to be executed for the development of the use of such land.

(2) On receipt of any application made under sub-section (1), the State Government shall issue a notice requiring—

(a) the local or other statutory authority to state, whether the intended development of the use of the specified urban land is in accordance with the land uses specified in the Master Plan or other Plan which has been prepared by such authority for the area in which such specified urban land is situate and whether any project for the development of the land uses of the specified urban land has been, or is proposed to be, undertaken by such authority, and where no such Plan has been prepared, whether such authority has any objection to the proposed development, by the Board, of the specified urban land for the land uses specified in sub-section (1);

(b) the Director General of Archaeology to state whether the development of the specified urban land for the land uses specified in sub-section (1) is likely to affect prejudicially any ancient or protected monument within the meaning of the Ancient Monuments Preservation Act, 1904, or any ancient monument or archaeological site and remains which have been declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 to be of national importance;

(c) the mutawalli of the concerned wakf to state whether he has any objection to the proposed development of the specified urban land for the land uses specified in sub-section (1), and if not, whether he is ready and willing to carry out the proposed work for the development of the specified urban land for such land uses within the time specified in the notice, and whether he has the financial and other means to do so.

(3) The notice referred to in sub-section (2) shall specify the time, not being less than sixty days, within which a reply thereto is to be given.

(4) If no reply is received to the notice issued under sub-section (2) or if after considering such replies as may be received in pursuance of the said notice and if, after making such inquiry as it may think fit, the State Government is satisfied that—

(a) the specified urban land is wakf property and is not in the possession of the mutawalli of the wakf and no process of acquisition of such land has been commenced under any law for the time being in force relating to the acquisition of land and that such land has not vested in the State under any law for the time being in force relating to land reforms;

(b) no project for the development of the land uses of the specified urban land has been, or is proposed to be, undertaken by the local or other statutory authority;

(c) the proposed work for the development of the specified urban land for the land uses specified in sub-section (1) is conducive to the interests of the wakf and is in the public interest;

(d) the proposed development of the specified urban land for such land uses is in accordance with the land uses specified in the Master Plan or other Plan as aforesaid, or, where there is no such Plan, has been approved by the local or other statutory authority aforesaid;

(e) the proposed development of the specified urban land for such land uses is not likely to prejudicially affect any ancient monument within the meaning of the Ancient Monuments Preservation Act, 1904, or any ancient monument or archaeological site and remains which have been declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958; and

(f) the mutawalli does not have my objection to the proposed development of land uses and is either unwilling to execute, or if willing, does not have the means of executing, the proposed work within the time specified in the notice issued to him,

the State Government may take over the management of the specified urban land for such period, not being more than five years or such longer period not being more than fifteen years in the aggregate, as the State Government may, from time to time, specify by notification in the Official Gazette, and shall thereafter, entrust the management of the specified urban land to the Board, for the pur-

of 1904.

4 of 1958.

poses of making such development of the land uses as are specified in sub-section (1), and may also authorise the Board to remove, from the specified urban land, any building or structure standing thereon, the removal of which is, in the opinion of the State Government, necessary for the purpose of executing any work for the development of the land uses of such specified urban land:

Provided that the Board shall, during the course of management of the specified urban land, carry on work for the development of such land for the land uses specified in sub-section (1), under the direction, control and supervision of the State Government:

Provided further that the High Court may, on the application of any person aggrieved by any order made by the State Government under this sub-section call for the records of the case from the State Government for the purpose of satisfying itself as to the correctness, legality or propriety of the order and may, after examining the records, pass such orders as it may think fit.

Explanation.—For the purposes of this section, specified urban land shall include all rights, leaseholds, powers, authorities and privileges, and shall also include all buildings, workshops and all other rights and interests arising out of the specified urban land, as were, immediately before the date on which management thereof is taken over by the State Government (hereinafter referred to as the appointed day) in the ownership, possession, power or control of the mutawalli of the wakf, and all books of accounts, registers and all the documents of whatever nature relating thereto.

(5) Any contract, whether express or implied, or other arrangement in so far as it relates to the management of the specified urban land and in force immediately before the appointed day, shall be deemed to have become terminated on the appointed day.

(6) All persons in charge of the management of the specified urban land, immediately before the appointed day, shall, on and from the appointed day, be deemed to have vacated their offices as persons in charge of the management thereof.

(7) Any person who, on the appointed day, has in his possession or under his control, any books, papers or other documents relating to the management of the specified urban land, shall deliver them to the Board or such person as the Board may authorise in this behalf.

(8) For every year or part thereof during which the Board remains in charge of the management of the specified urban land, there shall be paid by the Board annually to the mutawalli of the wakf, an amount equal to the average net annual income derived by the wakf from the specified urban land during the period of three years immediately preceding the appointed day and the amount so paid shall be duly credited to the account of the wakf to which the specified urban land pertains.

(9) The Board may execute any work for the development of the land uses of the specified urban land from its own finances, but where its own finances are not sufficient, it shall be lawful for the Board to raise the necessary finances on the security of the specified urban land.

(10) Any transfer of the specified urban land, or any contract or agreement relating thereto, made within a period of six months immediately preceding the date of service of the notice on the mutawalli under sub-section (2), shall, unless it was made in good faith and for valuable consideration in the due course of management of the specified urban land, be void.

(11) Subject to the provisions of sub-section (4), the Board shall continue to control the management of the specified urban land till such time as all the expenses incurred by it under this section for the development of the land for the land uses specified in sub-section (1), together with interest due thereon, and all expenses incurred for the maintenance of such work or development and other legitimate charges incurred in relation to the development of the specified urban land for such land uses are fully recovered from the income derived by the Board from such land or from any shopping centre, market, residential flats raised thereon or from other commercial uses of the specified urban land.

(12) The Board shall, after the recovery of all expenses and charges referred to in sub-section (11), or upon the expiry of the period specified under sub-section (4), whichever is earlier, restore to the person in charge of the management of the specified urban land immediately before the appointed day, the management of such land, as so developed, together with the shopping centres, markets, residential flats and other structures, if any, constructed thereon.

(13) The provisions of sub-sections (1), (2), (3) and (4) shall, as far as may be, apply to the proposal for the development of the land uses of any urban wakf property which is in the possession of the mutawalli of the wakf, subject to the modification that instead of taking over the management of such property, the State Government may, by order, remove the mutawalli from possession thereof and place the same in the possession of the Board and authorise the Board to carry out the development of such land uses of the urban wakf property as are specified in sub-section (1).

(14) Where, as a result of the development of any specified urban land, or any urban land referred to in sub-section (13), for the land uses specified in sub-section (1), there is a substantial increase in the income of the wakf and the quantum of the increase is such that the whole of such increased income is not needed for the purposes of the wakf, the Board may make a direction in accordance with the provisions of clause (e) of sub-section (2) of section 15, as to how such surplus income shall be utilised and submit such direction to the State Government for approval, and, thereupon, such surplus income shall be utilised for such purposes as may be specified in the direction as approved by the State Government.

**Powers
of ins-
pection
by Wakf
Commis-
sioner
or persons
authoris-
ed by
him.**

15B. (1) With a view to examining whether, by reason of any failure or negligence on the part of a mutawalli in the performance of his executive or administrative duties, any loss or damage has been caused to any wakf or wakf property, the Wakf Commissioner, or any other person authorised by him in writing in this behalf, may inspect all movable and immovable properties which are wakf properties, and all records, correspondence, plans, accounts and other documents relating thereto:

Provided that such inspection shall be made at least once in two years, in relation to every wakf having a gross annual income exceeding twelve thousand rupees.

(2) Whenever any such inspection as is referred to in sub-section (1) is made, the concerned mutawalli and all officers and other employees working under him, and every person connected with the administration of the wakf, shall extend to the person making such inspection, all such assistance and facilities as may be necessary and reasonably required by him to carry out such inspection, and shall also produce for inspection any movable property or documents relating to the wakf as may be called for by the person making the inspection and furnish to him such information relating to the wakf as may be required by him.

(3) Where, after any such inspection, it appears that the concerned mutawalli or any officer or other employee who is working under him or had been working under him in the past, had misappropriated, misapplied, or fraudulently retained, any money or other wakf property, or had incurred irregular, unauthorised or improper expenditure from the funds of the wakf, the Wakf Commissioner may, after giving the mutawalli or the person concerned a reasonable opportunity of showing cause why an order for the recovery of the amount or property aforesaid should not be passed against him, and after considering such explanation, if any, as such person may furnish, determine the amount or the property which has been misappropriated, misapplied or fraudulently retained, or the amount of the irregular, unauthorised or improper expenditure incurred, by such person, and make an order directing such person to make payment of the amount so determined from his personal funds, and not from the funds of the wakf, or, as the case may be, to restore the property aforesaid to the wakf, within such time as may be specified in the order.

(4) A mutawalli or other person aggrieved by such order may, within thirty days of the receipt by him of the order, appeal to the Tribunal:

Provided that no such appeal shall be entertained by the Tribunal unless the appellant first deposits with the Wakf Commissioner the amount which has been determined under sub-section (3) as being payable by the appellant and the Tribunal shall have no power to make any order staying, pending the disposal of the appeal, the operation of the order made by the Wakf Commissioner under sub-section (3).

(5) The Tribunal, after taking such evidence as it may think fit, may confirm, reverse or modify the order made by the Wakf

Commissioner under sub-section (3) or may remit, either in whole or in part, the amount specified in such order and may make such orders as to costs as it may think appropriate in the circumstances of the case.

(6) The order made by the Tribunal under sub-section (5) shall be final.

15C. Where any mutawalli or other person who has been ordered, whether under sub-section (3) or sub-section (5) of section 15B, to make any payment or to restore the possession of any property, omits or fails to make such payment or restoration within the time specified in such order, the Wakf Commissioner shall take such steps as he may think fit for the recovery of possession of the property aforesaid and shall also send a certificate to the Collector of the district in which the property of such mutawalli or other person is situate, stating therein the amount that has been determined by him or by the Tribunal, as the case may be, under section 15B, as being payable by such mutawalli or other person, and, thereupon, the Collector shall recover the amount specified in such certificate as if it were an arrear of land revenue and on the recovery of such amount, pay the same to the Wakf Commissioner, who shall, on receipt thereof, credit the amount to the funds of the concerned wakf.

Recovery
of the
amount
deter-
mined
under
section
15B.

15D. (1) Where the Wakf Commissioner is satisfied that the mutawalli or any other person who has been ordered under sub-section (3) or sub-section (5) of section 15B to make any payment, with intent to defeat or delay the execution of the said order,—

Condi-
tional
attach-
ment by
Tribunal.

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Wakf Commissioner,

he may apply to the Tribunal for the conditional attachment of the said property or such part thereof as he may think necessary.

(2) The Wakf Commissioner shall, unless the Tribunal otherwise directs, specify in the application the property required to be attached and the estimated value thereof.

(3) The Tribunal may direct the mutawalli or the person concerned, as the case may be, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same or such portion thereof as may be sufficient to satisfy the amount specified in the certificate referred to in section 15C, or to appear and show cause why he should not furnish such security.

(4) The Tribunal may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

(5) Every attachment made under this section shall be made in accordance with the provisions of the Code of Civil Procedure, 1908, as if it were an order for attachment made under the provision of the said Code.

(6) If any attachment is made without complying with the provision of sub-section (3), such attachment shall be void.”.

Amend-
ment
of sec-
tion 16.

16. In sub-section (2) of section 16 of the principal Act, after the words “functions and duties”, the words “and the term of office” shall be inserted.

Substi-
tution of
section
21.

17. For section 21 of the principal Act, the following section shall be substituted, namely:—

Appoint-
ment of
Wakf
Commis-
sioner
and his
term of
office,
etc.

“21. (1) There shall be in each State a Wakf Commissioner who shall be the Chief Executive Officer of the Board.

(2) The Wakf Commissioner shall be a person professing Islam and shall be appointed by the State Government by notification in the Official Gazette:

Provided that in the case of Union territories (including the Union territory of Delhi), the Central Government may, by notification in the Official Gazette, appoint one person to be the Wakf Commissioner for two or more Union territories, irrespective of whether or not any common Board has been established for such Union territories:

Provided further that where a common Board has been established under section 66F for two or more States, the power to appoint a Wakf Commissioner for such States shall vest in the Central Government, and the Wakf Commissioner, appointed by the Central Government, as far as may be, in accordance with the provisions of this section, shall function as the Wakf Commissioner in respect of each of the States for which such common Board has been established.

(3) The Wakf Commissioner shall be appointed from amongst such persons as are holding posts in the Senior Scale of Class I of the Judicial Service of the State or posts in the Senior Scale of any Administrative Service in the State:

Provided that no person shall be so appointed unless he has held the post of a Deputy Secretary to the Government of the State, or any other post of an equivalent rank, for a period of not less than five years:

Provided further that if in any State, no person, professing Islam, who has held the post of Deputy Secretary to the Government of the State or any other post of an equivalent rank for a period of five years, or more, is available, it shall be lawful for the State Government to relax the conditions with regard to the said status or rank, as the case may be, and the period for which a post of such status or rank should have been held by a person to become eligible for such appointment.

(4) The Wakf Commissioner shall hold office for such period, not exceeding five years, as may be specified in the notification whereby he is appointed, or until he attains the age of superannuation, whether under the rules for the time being in force in relation

to the members of the Service to which he belongs, or in relation to the post which he was holding immediately before his appointment as the Wakf Commissioner, whichever is earlier, and shall, subject to the provisions of this sub-section, be eligible for re-appointment for a like term.

(5) The Wakf Commissioner shall not, during his term of office as such, hold the office of a mutawalli of any wakf and shall devote his whole time and attention to his duties under this Act.

(6) The Wakf Commissioner shall receive such monthly salary, not being less than the salary drawn by him immediately before the date of his appointment as Wakf Commissioner, as may be fixed by the State Government, and shall hold such office with the same rights and privileges as to pension, gratuity, provident fund and other matters as would have been admissible to him if he had not been so appointed and shall continue to do so until his appointment as Wakf Commissioner is duly terminated or until the conditions of his service are duly altered by the State Government.

(7) The State Government may, after consultation with the Board, grant leave of absence to the Wakf Commissioner.

(8) The salaries and allowances to be drawn by the Wakf Commissioner during the period of his leave of absence shall be specified by the State Government:

Provided that such salaries and allowances shall not be less than the salaries and allowances which he would have drawn had he not been appointed as the Wakf Commissioner.

(9) Whenever leave of absence is granted to the Wakf Commissioner, the State Government may appoint any other person who fulfils the conditions specified in sub-section (1) to act as the Wakf Commissioner during the period of such leave, and the salaries and allowances of the person so appointed shall be fixed by the State Government, and such salaries and allowances shall not be less than the salaries and allowances which he would have drawn had he not been so appointed.

(10) The Wakf Commissioner may resign his office by writing under his own hand addressed to the State Government.

(11) The State Government may give directions to any Wakf Commissioner as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder and may also call for from the Wakf Commissioner such information as it may think fit.”

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

Inser-
tion of
new sec-
tions 21A,
21B, 21C,
21D, 21E
and
21 F,

Removal
of the
Wakf
Commis-
sioner.

"21A. (1) If at any time it appears to the State Government that the Wakf Commissioner is unsuitable for his office or has been guilty of misconduct or neglect of duties, which renders his removal from the office of Wakf Commissioner necessary in the public interest, the State Government may, by notification in the Official Gazette, remove him from such office:

Provided that the Wakf Commissioner shall not be so removed from his office as such except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) Whenever the Wakf Commissioner is removed, or resigns, from his office as Wakf Commissioner, the State Government shall appoint a suitable person who fulfils the conditions specified in sub-section (1) of section 21 as the Wakf Commissioner.

Powers to
make
appoint-
ments,
etc.,
to vest in
the Wakf
Commis-
sioner.

21B. (1) The Wakf Commissioner and the Board shall have the assistance of such number of officers and other employees as may be necessary for the efficient performance of his or its functions under this Act.

(2) The powers of appointment of officers and other employees of the Board and of promoting and granting leave to such officers and other employees and of reducing them in rank or suspending or dismissing them for misconduct shall vest in the Wakf Commissioner:

Provided that the Wakf Commissioner shall not appoint any person to a post carrying minimum monthly salary (exclusive of allowances) exceeding one thousand rupees per month except with the previous approval of the Board:

Provided further that where any officer or other employee holding a post carrying a minimum monthly salary (excluding allowances) exceeding five hundred rupees is reduced in rank or suspended or dismissed by the Wakf Commissioner, such officer or other employee may, within thirty days from the date of the order, prefer an appeal to the Board against the order of the Wakf Commissioner and the decision of the Board shall be final.

Duties
and
other
powers
of the
Wakf
Commis-
sioner,

21C. (1) Subject to the provisions of this Act and of the rules made thereunder, the functions of the Wakf Commissioner shall include—

(a) investigating the nature and extent of wakfs and wakf properties, and causing whenever necessary, an inventory of wakf properties and calling, from time to time for accounts, returns and informations from mutawallis;

(b) inspecting or causing the making of inspection of, wakf properties, accounts, records or deeds or documents relating thereto;

(c) doing, generally, all such acts as may be necessary for the due control, maintenance and administration of wakfs.

(2) In exercising his powers under this Act in respect of any wakf, the Wakf Commissioner shall act in conformity with the directions given by the wakf in the deed of wakf, the purpose of the wakf and such usages and customs of the wakf as are sanctioned by Muslim law.

(3) Save as otherwise expressly provided in this Act, the Wakf Commissioner shall exercise such powers and perform such duties as may be assigned to him or delegated to him by the Board under section 22.

21D. Where the Wakf Commissioner considers that an order or resolution passed by the Board—

- (a) has not been passed in accordance with law; or
- (b) is in excess of, or is an abuse of, the powers conferred on the Board by or under this Act or by any other law; or
- (c) if implemented, is likely to—
 - (i) cause financial loss to the Board or to the concerned wakf or to the wakfs generally, or
 - (ii) cause danger to human life, health or safety, or
 - (iii) lead to a riot or breach of the peace, or
- (d) is not beneficial to the Board or to any wakf or to wakfs generally,

he may, without implementing such order or resolution place the matter before the State Government alongwith a note pointing out the objections which he has to the order or resolution, as the case may be, and the orders of the State Government thereon shall be final and binding on the Board and the Wakf Commissioner.

21E. (1) The Wakf Commissioner may delegate such of the administrative, accounting or auditing powers conferred on him by this Act, to the Area Committee, established by the Board, as may be necessary, and may, at any time, revoke the delegation so made by him.

(2) Subject to the control of the Wakf Commissioner and general or special directions given or imposed by him, the Area Committee authorised by the Wakf Commissioner to exercise any power, may exercise these powers in the same manner and to the same extent as if they have been conferred on that Committee directly by this Act and not by way of delegation.

21F. Any reference in this Act to the exercise of any power by the Wakf Commissioner shall be construed as a reference to the exercise by him of those powers which he is empowered by or under this Act to exercise.”

Power of the Wakf Commissioner not to implement orders or resolutions of the Board in certain cases.

Delegation of powers by the Wakf Commissioner.

Construction of reference with regard to exercise of powers by the Wakf Commissioner.

Substitution of section 22.

Delegation of powers by the Board.

Insertion of new sections 22A and 22B.

Wakf Commissioner may exercise powers through Collectors, etc.

Powers of Wakf Commissioner to inspect records, registers, etc.

Amendment of section 23.

19. For section 22 of the principal Act, the following section shall be substituted, namely:—

"22. The Board may, from time to time, by an order, authorise the Wakf Commissioner to exercise and perform, subject to the control of the Board, such of the powers and duties conferred or imposed on the Board by or under this Act, as may be specified in such order, and may at any time revoke the authorisation so made by it, and where any such authorisation is made, the Wakf Commissioner may exercise those powers and duties in the same manner and to the same extent as if they have been conferred on him directly by this Act and not by way of authorisation."

20. After section 22 of the principal Act, the following sections shall be inserted, namely:—

"22A. Subject to the provisions of this Act and of the rules made thereunder, the Wakf Commissioner may exercise all or any of the powers conferred on him by or under this Act, through the Commissioner of the Division or the Collector of the district in which the concerned wakf property is situate, or through any other person whom he may appoint for such purpose, and may, from time to time, delegate any of his powers to any such Commissioner of the Division or Collector or any other person and may at any time revoke the delegation so made by him, and where any such delegation of powers is made by the Wakf Commissioner, the person to whom such delegation is made may exercise those powers in the same manner and to the same extent as if they have been conferred on him directly by this Act and not by way of delegation.

22B. The Wakf Commissioner or any officer of the Board duly authorised by him in this behalf shall, subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees as may be leviable under any law for the time being in force, be entitled at all reasonable time to inspect, in any public office, any records, registers or other documents relating to a wakf or movable or immovable properties which are wakf properties or are claimed to be wakf properties."

21. In section 23 of the principal Act,—

(a) in sub-section (1), for the words "The Board may allow inspection of its proceedings or other records in its custody", the words "The Wakf Commissioner may allow inspection of the proceedings of the Board or other records in his custody" shall be substituted;

(b) in sub-section (2), for the words "Secretary of the Board", the words "Wakf Commissioner" shall be substituted;

(c) in sub-section (3),—

(i) for the word "Secretary", the words "Wakf Commissioner" shall be substituted;

(ii) for the words "authorised in this behalf by the Board", the words "authorised in this behalf by the Wakf Commissioner" shall be substituted.

22. In section 25 of the principal Act,—

(a) for the word "Board", wherever it occurs, the words "Wakf Commissioner" shall be substituted;

(b) in sub-section (6), for the words "it may consider", the words "he may consider" shall be substituted;

(c) in sub-section (7), for the words "as it thinks fit", the words "as he thinks fit" shall be substituted;

(d) after sub-section (8), the following sub-sections shall be inserted, namely:—

"(9) Every wakf registered under this section before the commencement of the Wakf (Amendment) Act, 1984 shall be deemed to have been registered on such commencement, at the office of the Wakf Commissioner.

(10) Every application for registration under this section pending immediately before the commencement of the Wakf (Amendment) Act, 1984 before the Board shall, on such commencement, stand transferred to the Wakf Commissioner and the Wakf Commissioner shall deal with such application as if it were an application pending before him."

23. Section 26 of the principal Act shall be renumbered as sub-section (1) of that section, and

(a) in sub-section (1) as so renumbered, for the word "Board", the words "Wakf Commissioner" shall be substituted;

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

"(2) The register of wakfs maintained under this section immediately before the commencement of the Wakf (Amendment) Act, 1984 shall be deemed, on such commencement, to be the register maintained by the Wakf Commissioner under sub-section (1)."

24. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Amend-
ment of
section
25.

Amend-
ment of
section
26.

Insertion
of new
sections
26A and
26B.

Power
of Wakf
Commissioner to
appoint
Executive
Officers,

"26A. (1) Notwithstanding anything contained in this Act, the Wakf Commissioner may, if he is of opinion that it is necessary so to do in the interest of wakfs, appoint, subject to such conditions as may be prescribed, Executive Officers for every wakf having a gross annual income of not less than fifty thousand rupees.

(2) Every Executive Officer appointed under sub-section (1) shall exercise such powers and discharge such duties as pertain only

to the administration of the property of the wakf for which he has been appointed and shall exercise those powers and discharge those duties under the direction, control and supervision of the Wakf Commissioner:

Provided that the Executive Officer who is appointed for a wakf having a gross annual income of not less than sixty thousand rupees, shall ensure that the budget of the wakf is submitted, the accounts of the wakf are regularly maintained, and the yearly statement of accounts are submitted positively within such time as the Wakf Commissioner may specify.

(3) While exercising his powers and discharging his functions under sub-section (2), the Executive Officer shall not interfere with any religious duties or any usage or custom of the wakf sanctioned by the Muslim law.

(4) The salaries and allowances of the Executive Officer shall be fixed by the Wakf Commissioner in accordance with the rules made in this behalf under section 67 and in fixing the quantum of such salary the Wakf Commissioner shall have due regard to the income of the wakf, the extent and nature of the duties of the Executive Officer and shall also ensure that the amount of such salaries and allowances are not disproportionate to the income of the wakf and do not operate as an unnecessary financial burden on it.

(5) The salaries and allowances of the Executive Officer shall be paid from the funds of the concerned wakf.

(6) The Wakf Commissioner may, for good and sufficient reasons, and after giving to the Executive Officer a reasonable opportunity of being heard, suspend, remove or dismiss him from his post as such Executive Officer.

(7) Any Executive Officer who is aggrieved by any order of removal or dismissal made under sub-section (6) may, within thirty days from the date of communication of the order to him, prefer an appeal against the order to the Tribunal and the Tribunal may, after considering such representation as the Wakf Commissioner may make in the matter, and after giving a reasonable opportunity to the Executive Officer of being heard, confirm, modify or reverse the order.

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

(a) a person may be appointed as the Executive Officer under this section on a whole-time basis or on a part-time basis;

(b) a person may be appointed as an Executive Officer in an honorary capacity, that is to say, without payment of salary or, as the case may be, without payment of salary and of any allowances;

(c) the same person may be appointed as an Executive Officer under this section for two or more wakfs, and, where the said person is not appointed in an honorary capacity, the salary and allowances payable to the person so appointed may be paid from the funds of the concerned wakfs, in such manner and in such proportion as the Wakf Commissioner may determine.

Powers
of the
Wakf
Commis-
sioner in
relation
to wakfs
which
have
ceased
to exist.

26B. (1) The Wakf Commissioner shall, if he is satisfied that the objects or any part thereof, of a wakf have ceased to exist, whether such cesser took place before or after the commencement of the Wakf (Amendment) Act, 1984, hold an inquiry, in the prescribed manner, to ascertain the properties and funds pertaining to such wakf and after doing so, shall pass an order—

(a) specifying the property and funds pertaining to the wakf and for the recovery of such property or funds so specified;

(b) directing that any property or funds pertaining to the wakf which have been recovered shall be applied or utilised for the renovation of any wakf property and where there is no need for making any such renovation or where utilisation of the funds for such renovation is not possible, be appropriated, after obtaining the approval of the Board, to any of the purposes specified in sub-clause (iii) of clause (e) of sub-section (2) of section 15.

(2) The Wakf Commissioner may, if he has any reason to believe that any building or other place which was being used for religious purpose or instruction or for charity has, whether before or after the commencement of the Wakf (Amendment) Act, 1984, ceased to be used for that purpose, make an application to the Tribunal for an order directing the recovery of possession of such building or other place.

(3) The Tribunal may, if it is satisfied, after making such inquiry as it may think fit, that such building or other place—

(a) is wakf property;

(b) has not been acquired under any law for the time being in force relating to acquisition of land or is not under any process of acquisition under any such law, or has not vested in the State Government under any law for the time being in force relating to land reforms; and

(c) is not in the occupation of any person who has been authorised by or under any law for the time being in force to occupy such building or other place,

may make an order—

(i) directing the recovery of such building or place from any person who may be in unauthorised possession thereof, and

(ii) directing that such property, building or place be used for religious purpose or instruction as before, or if such use is not possible, be utilised, for any purpose specified in sub-clause (iii) of clause (e) of sub-section (2) of section 15.”.

25. After sub-section (2) of section 27 of the principal Act, the following sub-section shall be inserted, namely:—

Amend-
ment of
section
27.

“(3) Where the Board has any reason to believe that any property of any trust or society registered in pursuance of the Indian Trusts Act, 1882 or under the Societies Registration Act, 1860 or under any other Act, is wakf property, the Board may notwithstanding anything contained in such Act, hold an inquiry in

regard to such property and, if after such inquiry, the Board is satisfied that such property is wakf property, call upon the trust or society, as the case may be, either to register such property under this Act as wakf property or show cause why such property should not be so registered:

Provided that in all such cases, notice of the action proposed to be taken under this sub-section shall be given to the authority by whom the trust or society had been registered.

(4) The Board shall, after duly considering such cause as may be shown in pursuance of notice issued under sub-section (3), pass such orders as it may think fit and the order so made by the Board, shall be final, unless it is revoked or modified by a civil court of competent jurisdiction.”.

Amend-
ment
of sec-
tion 28.

26. In section 28 of the principal Act,—

(a) for the word “Board”, the words “Wakf Commissioner” shall be substituted;

(b) for the words “may itself”, the words “may himself” shall be substituted.

Amend-
ment
of sec-
tion 29.

27. In section 29 of the principal Act, for the word “Board”, at both the places where it occurs, the words “Wakf Commissioner” shall be substituted.

Amend-
ment
of sec-
tion 31.

28. Section 31 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(a) to sub-section (1), as so renumbered, the following proviso shall be added, namely:—

“Provided that where the gross annual income of the wakf exceeds five thousand rupees, such budget shall be submitted to the Wakf Commissioner for his approval.”;

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

“(2) The Wakf Commissioner may, after giving notice to the mutawalli in the prescribed manner, and after considering his representations, if any, pass an order making such alterations, omissions and additions in the budget as he may think fit and the budget as so approved or modified shall be the budget of the wakf for that year.”.

Insertion
of new
section
31A.

29. After section 31 of the principal Act, the following section shall be inserted, namely:—

Duties of
Wakf
Commis-
sioner to
prepare
budget for
wakfs
under
the direct
manag-
ement of
the
Board.

“31A. (1) The Wakf Commissioner shall, in every year, prepare, in such form and at such time as may be prescribed, a separate budget for the next financial year for each of the wakfs under the direct management of the Board, showing therein the estimated receipts and expenditure and submit it to the Board for its approval.

(2) While submitting the budgets under sub-section (1), the Wakf Commissioner shall also prepare a statement giving details of the increase, if any, in the income of each wakf under the direct management of the Board and the steps which have been

taken for its better management and the results accruing therefrom during the year.

(3) The Wakf Commissioner shall keep regular accounts and be responsible for the proper management of every wakf under the direct management of the Board.

(4) Every budget submitted by the Wakf Commissioner under sub-section (1) shall comply with the requirements of section 32 and, for this purpose, references therein to the mutawalli of the wakf shall be construed as references to the Wakf Commissioner.

(5) The audit of accounts of every wakf under the direct management of the Board shall be undertaken by the State Examiner of Local Funds or any other officer appointed by the State Government for this purpose, irrespective of the income of the wakf.

(6) The provisions of sub-sections (2) and (3) of section 33 and the provisions of sections 34 and 35 shall, in so far as they are not inconsistent with the provisions of this section, apply to the audit of accounts referred to in this section.

(7) Where any wakf is under the direct management of the Board, such administrative charges as may be specified by the Wakf Commissioner shall be payable by the wakf to the Board:

Provided that the Wakf Commissioner shall not collect, except with the previous approval of the State Government, more than ten per cent. of the gross annual income of the wakf under the direct management of the Board as administrative charges payable to the Board.”.

30. In section 33 of the principal Act,—

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

“(1) The accounts of wakfs submitted to the Board under section 32 shall be audited and examined in the following manner, namely:—

(a) in the case of a wakf having no income or a net annual income not exceeding one thousand rupees, the submission of a statement of accounts shall be a sufficient compliance with the provisions of section 32, and the accounts of two per cent. of such wakfs shall be audited annually by an auditor appointed by the Board;

(b) the accounts of a wakf having a net annual income exceeding one thousand rupees but not exceeding three thousand rupees, shall be prepared in the form of a statement of income and expenditure, supported by properly maintained vouchers and receipts, and shall be audited triennially or at such other intervals as may be prescribed, by an auditor appointed by the Wakf Commissioner;

(c) the accounts of a wakf having a net annual income exceeding three thousand rupees but not exceeding five thousand rupees, shall be audited by an auditor appointed by the Board from out of a panel of auditors prepared by the State Government and such audit shall be made biennially

Amend-
ment
of sec-
tion 33.

or at such other intervals as may be prescribed and while drawing up such panel of auditors, the State Government shall specify the scale of remuneration of the auditors;

(d) the accounts of a wakf having a net annual income exceeding five thousand rupees, shall be audited by the State Examiner of Local Funds or by any other officer designated for the purpose by the State Government and every such audit shall be made annually or at such other intervals as may be prescribed:

Provided that where the net annual income of the wakf is not less than sixty thousand rupees, the accounts of such wakfs shall be audited concurrently as and when any expenditure is incurred and every such concurrent audit shall be made in accordance with such rules as may be prescribed.”;

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

“(3) The cost of the audit of the accounts of a wakf shall be met from the funds of that wakf:

Provided that the remuneration of the auditors appointed from out of the panel drawn by the State Government in relation to wakfs having a net annual income of more than three thousand rupees but less than five thousand rupees shall be paid in accordance with the scale of remuneration specified by the State Government under clause (c) of sub-section (1):

Provided further that where the audit of the accounts of any wakf is made by the State Examiner of Local Funds or any other officer designated by the State Government in this behalf, the cost of such audit shall not exceed one and a half per cent. of the net annual income of such wakf and such costs shall be met from the funds of the wakf concerned.”.

Amend-
ment
of sec-
tion 34.

31. Section 34 of the principal Act shall be renumbered as sub-section (1) thereof, and—

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

(i) after the words “auditor's report”, the words, brackets and figures “or where the auditor's report is submitted after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner shall examine such report” shall be inserted;

(ii) for the words “shall pass such orders on the report as it thinks fit”, the words, brackets and figures “the Board or, as the case may be, the Wakf Commissioner shall pass such orders on the report as it or he may think fit, including orders for the recovery of the amount certified by the auditor under sub-section (2) of section 33” shall be substituted;

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

“(2) The mutawalli or any other person aggrieved by any order made by the Board or the Wakf Commissioner under

sub-section (1) may, within thirty days of the receipt by him of the order, apply to the Tribunal to modify or set aside the order and the Tribunal may, after taking such evidence as it may think necessary, confirm or modify the order or remit the amount so certified, either in whole or in part, and may also make such order as to costs as it may think appropriate in the circumstances of the case.

(3) No application made under sub-section (1) shall be entertained by the Tribunal unless the amount certified by the auditor under sub-section (2) of section 33 has first been deposited in the Tribunal and the Tribunal shall not have any power to stay the operation of the order made by the Board or the Wakf Commissioner under sub-section (1).

(4) The order made by the Tribunal under sub-section (2) shall be final.

(5) Every amount for the recovery of which any order has been made under sub-section (1) or sub-section (2) shall, where such amount remains unpaid, be recoverable in the manner specified in section 15C or section 15D as if the said order were an order for the recovery of any amount determined under sub-section (3) of section 15B."

32. In section 35 of the principal Act, in sub-section (1), for the words "order of the Board", the words "order of the Board, or the Wakf Commissioner or the Tribunal, as the case may be," shall be substituted.

Amendment
of sec-
tion 35.

33. In section 36 of the principal Act,—

(1) in clause (a), for the words "directions of the Board", the words "directions made by—

(i) the Board, or

(ii) the Wakf Commissioner,

in accordance with the provisions of this Act or of any rule or order made thereunder" shall be substituted;

Amend-
ment
of sec-
tion 36.

(2) in clause (b), for the words "required by the Board", the words "required by the Board, or the Wakf Commissioner, as the case may be, in accordance with the provisions of this Act or of any rule or orders made thereunder" shall be substituted.

34. For section 36A of the principal Act, the following section shall be substituted, namely:—

Substi-
tution of
section
36A.

"36A. (1) Notwithstanding anything contained in the wakf deed, any gift, sale, exchange or hypothecation of any immovable property which is wakf property, shall be void unless such gift, sale, exchange or hypothecation is effected with the prior sanction of the Board.

(2) The Board may, after publishing in the Official Gazette, the particulars relating to the transaction referred to in sub-section (1) and inviting any objections and suggestions with respect thereto

Aliena-
tion of
wakf
property
without
sanction
of Board
to be
void.

and considering all objections and suggestions, if any, that may be received by it from the concerned mutawalli or any other person interested in the wakf, accord sanction to such transaction if it is of opinion that such transaction is—

- (i) necessary or beneficial to the wakf;
- (ii) consistent with the objects of the wakf;
- (iii) the consideration thereof is reasonable and adequate:

Provided that the sale of any property sanctioned by the Board shall be effected by public auction and shall be subject to confirmation by the Board within such time as may be prescribed:

Provided further that the Tribunal may, on the application of the aggrieved mutawalli or other person, for reasons to be recorded by it in writing, permit such sale to be made otherwise than by public auction, if it is of opinion that it is necessary so to do in the interest of the wakf.

(3) The utilisation or investment of the amount realised by the sale, exchange or hypothecation of any property shall be made by the mutawalli subject to the approval of the Board, and where any amount has been raised by mortgage of any such property, the mutawalli or other person shall make repayment of the mortgage-debt and obtain a discharge of the mortgage-debt from the mortgagee within such reasonable time as the Board may specify.

(4) Every approval given by the Board under sub-section (3) shall be communicated to the mutawalli and shall also be published in the prescribed manner.

(5) The mutawalli or any other person having an interest in the wakf who is aggrieved by the decision given under sub-section (3), may, within ninety days from the date of communication to him of such decision or the publication of the decision, as the case may be, prefer an appeal to the Tribunal against such decision, and, thereupon, the Tribunal may, after giving the appellant and the Board or the Wakf Commissioner, as the case may be, a reasonable opportunity of being heard, confirm, modify or set aside such decision.”.

Inser-
tion
of new
sections
36C, 36D,
36E and
36F.

Restric-
tion on
purchase
of prop-
erty
on behalf
of the
Wakf

35. After section 36B of the principal Act, the following sections shall be inserted, namely:—

36C. Notwithstanding anything contained in a wakf deed, no immovable property shall be purchased for or on behalf of any wakf from the funds of any wakf except with the prior sanction of the Wakf Commissioner, and the Wakf Commissioner shall not accord such sanction unless he considers that the acquisition of such property is necessary or beneficial to the wakf and that the price proposed to be paid therefor is adequate and reasonable:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in the Official

Gazette inviting objections and suggestions with respect thereto and, the Wakf Commissioner shall, after considering the objections and suggestions that may be received by him from mutawallis or other persons interested in the wakf, make such orders as he may think fit.

36D. (1) Whenever the Wakf Commissioner considers, whether on receiving any complaint or on his own motion, that there has been an encroachment on any land, building, space or other property which is wakf property and, which has been registered as such under this Act, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling upon him to show cause before a date to be specified in the notice, as to why an order requiring him to remove the encroachment before the date so specified should not be made and shall also send a copy of such notice to the concerned mutawalli.

(2) The notice referred to in sub-section (1) shall be served in such manner as may be prescribed.

(3) If, after considering the objections, received during the period specified in the notice, and after conducting an inquiry in such manner as may be prescribed, the Wakf Commissioner is satisfied that the property in question is wakf property and that there has been an encroachment on any such wakf property, he may, by an order, require the encroacher to remove such encroachment and deliver possession of the land, building, space or other property encroached upon to the mutawalli of the wakf.

Explanation.—In this section and in section 36E, “encroacher” means the person by whom any encroachment has been made on any land, building, space or other property which is wakf property.

(4) Nothing contained in sub-section (3) shall prevent any person aggrieved by the order made by the Wakf Commissioner under that sub-section from instituting a suit in a court of law to establish that he has right, title or interest in the land, building, space or other property:

Provided that no such suit shall be instituted by a person who has been let into possession of the land, building, space or other property as a lessee, licensee or mortgagee by the mutawalli of the wakf or by any other person authorised by him in this behalf.

36E. Where, the person ordered under sub-section (3) of section 36D to remove any encroachment omits or fails to remove such encroachment within the time specified in the order or, as the case may be, fails to vacate the land, building, space or other property to which the order relates, within the time aforesaid, the Wakf Commissioner may apply to the Sub-Divisional Magistrate within the local limits of whose jurisdiction the land, building, space or other property is situate for evicting the encroacher, and, thereupon, the Magistrate shall make an order directing the encroacher to remove the encroachment, or, as the case may be, vacate the land, building, space or other property, and to deliver possession thereof to the concerned mutawalli, and in

Removal
of encroa-
chments
from
wakf
property.

Enforce-
ment of
the order
made
under
section
36D.

default of compliance with the order, remove the encroachment or, as the case may be, evict the encroacher from the land, building, space or other property and may, for this purpose, take such police assistance as may be necessary.

Restrictions on the powers to grant lease of wakf property.

36F. (1) A lease or sub-lease for any period exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or instrument of wakf or in any other law for the time being in force, be void and of no effect.

(2) A lease or sub-lease for a period exceeding one year and not exceeding three years of any immovable property which is wakf property shall, notwithstanding anything contained in the deed or instrument of wakf or in any other law for the time being in force, be void and of no effect unless it is made with the previous sanction of the Board.

(3) The Board shall, in granting sanction for the making or renewal of lease under this section review the terms and conditions on which the lease or sub-lease is proposed to be granted or renewed and make its approval subject to the revision of such terms and conditions in such manner as it may direct.

Amendment of section 38.

36. In section 38 of the principal Act,—

(a) in sub-section (1), for the word "Board", the words, brackets and figures "the Board, or where such refusal or failure occurs after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner", shall be substituted;

(b) in sub-section (2), for the word "Board", the words "Board, or, as the case may be, the Wakf Commissioner" shall be substituted.

Amendment of section 39.

37. In section 39 of the principal Act, for the words "the Board may direct the creation and maintenance, in such manner as it may think fit", the words "the Wakf Commissioner may direct the creation and maintenance, in such manner as he may think fit" shall be substituted.

Amendment of section 40.

38. In section 40 of the principal Act, for the words "The Board may, if it is satisfied", the words "The Wakf Commissioner may, if he is satisfied" shall be substituted.

Amendment of section 41.

39. In section 41 of the principal Act,—

(a) in sub-section (1), for the words "fine which may extend to one thousand rupees", the words "fine which may extend to two thousand rupees" shall be substituted;

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

"(1A) Notwithstanding anything contained in sub-section (1), if,—

(a) a mutawalli omits or fails, with a view to concealing the existence of a wakf, to apply for its registration under this Act,—

(i) in the case of a wakf created before the commencement of the Wakf (Amendment) Act, 1984, within

the period specified therefor in sub-section (8) of section 25 or within a period of one month from such commencement, whichever period expires later; or

(ii) in the case of any wakf created after such commencement, within three months from the date of the creation of the wakf; or

(b) a mutawalli furnishes any statement, return or information to the Wakf Commissioner or the Board, as the case may be, which he knows or has reason to believe to be false, misleading, untrue or incorrect in any material particular,

he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to five thousand rupees.”;

(c) in sub-section (2), for the words “made by the Board or an officer duly authorised by the Board”, the words “made by the Board or the Wakf Commissioner or by an officer duly authorised by the Board or the Wakf Commissioner” shall be substituted;

(d) in sub-section (3), 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;

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

“(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the fine imposed under sub-section (1), when realised, shall be credited to the Wakf Fund.

(5) In every case where an offender is convicted after the commencement of the Wakf (Amendment) Act, 1984, of an offence punishable under sub-section (1) and sentenced to a fine, the court shall also impose such term of imprisonment in default of payment of fine as is authorised by law for such default.”.

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

Inser-
tion of
new sec-
tions
41A and
41B.

“41A. No mutawalli shall spend any money out of the funds of the wakf, of which he is the mutawalli, for meeting any costs, charges or expenses which are, or may be, incurred by him, in relation to any suit, appeal or any other proceeding for, or incidental to, his removal from office or for taking any disciplinary action against himself.

Muta-
walli
not to
spend
any
money
belong-
ing to a
wakf for
defending
himself.

Power of Board to determine by whom costs, etc., shall be paid.

Amend-
ment
of sec-
tion 43.

41B. The Board shall determine by whom or out of which fund and to what extent any costs, charges or expenses, for or incidental to, any appeal or other proceeding before the Board, shall be paid, and the order for payment made by the Board shall be deemed to be an order passed by a civil court and may be sent by the Board for execution to the court within the local limits of whose jurisdiction the person who is so ordered to make such payment voluntarily resides or carries on business or personally works for gain and the court to which the order is so sent for execution shall execute such order as if it were an order made by it.”.

41. In section 43 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), for the words “moral turpitude”, the words “moral turpitude, and such conviction has not been reversed and he has not been granted full pardon with respect to such offence,” shall be substituted;

(ii) clause (c) shall be omitted;

(iii) clause (e) shall be omitted;

(iv) after clause (e), as so omitted, the following clauses shall be inserted, namely:—

“(f) is an undischarged insolvent; or

(g) is proved to be addicted to drinking liquor or other spirituous preparations, or is addicted to the taking of any narcotic drugs; or

(h) is employed as a paid legal practitioner on behalf of, or against, the wakf; or

(i) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 32; or

(j) is interested, directly or indirectly, in a subsisting lease in respect of any wakf property, or in any contract made with, or any work being done for, the wakf or is in arrears in respect of any sum due by him to such wakf; or

(k) continuously neglects his duties or commits any misfeasance, malfeasance, misapplication of funds or breach of trust in relation to the wakf or in respect of any money or other wakf property; or

(l) wilfully and persistently disobeys the lawful orders made by the Central Government, State Government, Board or Wakf Commissioner under any provision of this Act or rule or order made thereunder.”;

(b) sub-section (2) shall be omitted;

(c) in sub-section (4),—

(i) the words, brackets and figure "or sub-section (2)" shall be omitted;

(ii) for the word "three-fourths", the word "two-thirds" shall be substituted;

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

"(4A) A mutawalli who is aggrieved by an order passed under any of the clauses (d) to (l) of sub-section (1), may, within one month from the date of the receipt by him of the order, appeal against the order to the Tribunal and the decision of the Tribunal on such appeal shall be final";

(e) after sub-section (4A), the following sub-sections shall be inserted, namely:—

"(4B) Where any inquiry under sub-section (4) is proposed, or commenced, against any mutawalli, the Board may, if it is of opinion that it is necessary so to do in the interests of the wakf, by an order suspend such mutawalli until the conclusion of the inquiry.

Provided that no suspension for a period exceeding ten days shall be made except after giving the mutawalli a reasonable opportunity of being heard against the proposed action.

(4C) Where any appeal is filed by the mutawalli to the Tribunal under sub-section (4A), the Wakf Commissioner may make an application to the Tribunal for the appointment of a receiver to manage the wakf pending the decision of the appeal, and where such an application is made, the Tribunal shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, appoint a suitable person as receiver to manage the wakf and direct the receiver so appointed to ensure that the customary or religious rights of the mutawalli and of the wakf are safeguarded.";

(f) in sub-section (5), the words, brackets and figure "or sub-section (2)" shall be omitted.

42. For section 43A of the principal Act, the following section shall be substituted, namely:—

Substitution of section 43A.

"43A. (1) Where no suitable person is available for appointment as a mutawalli of a wakf, or where the Board is satisfied, for reasons to be recorded by it in writing, that the filling up of the vacancy in the office of a mutawalli is prejudicial to the interests of the wakf, the Board may, by notification in the Official Gazette, assume direct management of the wakf for such period or periods, not exceeding five years in the aggregate, as may be specified in the notification.

Assumption of direct management of certain wakfs by the Board.

(2) The State Government may, on its own motion or on the application of any person interested in the wakf, call for the records of any case for the purpose of satisfying itself as to the correct-

ness, legality or propriety of the notification issued by the Board under sub-section (1) and pass such orders as it may think fit and the orders so made by the State Government shall be final and shall be published in the manner specified in sub-section (1).

(3) As soon as possible after the close of every financial year, the Board shall send to the State Government, a detailed report in regard to every wakf under its direct management, giving therein—

(a) the details of the income of the wakf for the year immediately preceding the year under report;

(b) the steps taken to improve the management and income of the wakf;

(c) the period during which the wakf has been under the direct management of the Board and explaining the reasons as to why it has not been possible to entrust the management of the wakf to the mutawalli or any committee of management during the year; and

(d) such other matters as may be prescribed.

(4) The State Government shall examine the report submitted to it under sub-section (3) and, after such examination, issue such directions or instructions to the Board as it may think fit and the Board shall comply with such instructions on receipt thereof.”.

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

Inser-
tion of
new
sections
43B to
43F.

Powers
of ap-
point-
ment
and
removal
of muta-
walli
when
to be
exer-
cised
by the
State
Govern-
ment.

Super-
vision
and super-
session
of Com-
mittee
of Man-
agement.

“43B. Whenever a deed of wakf or any decree or order of a court or any scheme of management of any wakf provides that a court or any authority other than a Board may appoint or remove a mutawalli or settle or modify such scheme of management or otherwise exercise superintendence over the wakf, then notwithstanding anything contained in such deed of wakf, decree, order or scheme, the powers aforesaid shall be exercisable by the State Government.

43C. (1) Whenever the supervision or management of a wakf is vested in any committee appointed by the wakif, then, notwithstanding anything contained in this Act, such committee shall continue to function until it is superseded by the Board or until the expiry of such term as may be specified by the wakif, whichever is earlier:

Provided that such committee shall function under the direction, control and supervision of the Board and of the Wakf Commissioner, and abide by such directions as the Board or, as the case may be, the Wakf Commissioner may issue from time to time:

Provided further that if the Wakf Commissioner is satisfied that any scheme for the management of a wakf by a committee is inconsistent with any provision of this Act or of any rule made thereunder or with the directions of the wakif, he may, at any time, modify the scheme in such manner as may be necessary to bring it in conformity with the directions of the wakif or of the provisions of this Act and the rules made thereunder.

(2) Notwithstanding anything contained in this Act and in the deed of wakf, the Board may, if it is satisfied, for reasons to be recorded by it in writing, that a committee referred to in sub-section (1) is not functioning properly and satisfactorily or that the wakf is being mismanaged and that in the interests of its proper management, it is necessary so to do, by an order, supersede such committee and, on such supersession, any direction of the wakif, in so far as it relates to the constitution of the committee, shall cease to have any force:

Provided that the Board shall, before making any order superseding any committee, issue a notice setting forth therein the reasons for the proposed action and calling upon the committee to show cause within such time, not being less than one month, as may be specified in the notice, as to why such action shall not be taken.

(3) Every order made by the Board under sub-section (2) shall be published in the prescribed manner and on such publication shall be binding on the mutawalli and all persons having any interest in the wakf.

(4) Any order made by the Board under sub-section (2) shall be final:

Provided that any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, make an application to the Tribunal for the adjudication of the matter:

Provided further that the Tribunal shall have no power to suspend the operation of the order made by the Board pending such adjudication.

(5) The Board shall, whenever it supersedes any committee under sub-section (2), constitute a new committee of management simultaneously with the order made by it under sub-section (2).

(6) Notwithstanding anything contained in the foregoing sub-sections, the Board may, instead of superseding any committee under sub-section (2), remove any member thereof if it is satisfied that such member has abused his position as such member or had knowingly acted in a manner prejudicial to the interests of the wakf, and every such order for the removal of any member shall be served upon him by registered post:

Provided that no order for the removal of the member shall be made unless he has been given a reasonable opportunity of showing cause against the proposed action;

Provided further that any member aggrieved by any order for his removal from the membership of the committee, may, within a period of thirty days from the date of service of the order on him, prefer an appeal against such order to the Tribunal, and the Tribunal may, after giving a reasonable opportunity to the appellant and the Board of being heard, confirm modify or reverse the order made by the Board and the order made by the Tribunal in such appeal shall be final.

Matters which an order for removal of mutawalli or committee shall contain.

Duty of mutawalli or committee to deliver possession of records, etc.

43D. Whenever any order is made in accordance with the provisions of this Act for the removal of a mutawalli or committee, such order shall direct the removed mutawalli or the removed committee, as the case may be, to hand over charge, and to deliver possession of the records, accounts and all properties of the wakf (including cash) to the successor mutawalli or the successor committee, as the case may be, and shall also specify therein a date on or before which such charge shall be handed over and such delivery of possession shall be made.

43E. (1) Where any mutawalli or committee of management has been removed by the Board in accordance with the provisions of this Act, or of any scheme made by the Board, the mutawalli or the committee, as the case may be, who or which has been so removed from office (hereinafter in this section referred to as the removed mutawalli or removed committee, as the case may be) shall hand over charge and deliver possession of the records, accounts and all properties of the wakf (including cash) to the successor mutawalli or the successor committee, as the case may be, within one month from the date specified in the order whereby the removed mutawalli or removed committee has been directed to hand over charge and to deliver possession of records, accounts and all properties of the wakf (including cash), to the successor mutawalli or successor committee, as the case may be.

(2) Where any removed mutawalli or removed committee fails to deliver charge or deliver possession of the records, accounts and properties (including cash) to the successor mutawalli or successor committee within the time specified in sub-section (1), or prevents or obstructs such mutawalli or committee, from obtaining possession thereof after the expiry of the period aforesaid, the successor mutawalli or any member of the successor committee may make an application, accompanied by—

(a) certified copy of the order appointing such successor mutawalli or successor committee, and

(b) a certificate issued by the Wakf Commissioner specifying such failure, or obstruction,

to any Magistrate of the first class within the local limits of whose jurisdiction any part of the wakf property is situate, and thereupon, the Magistrate may, after giving notice to the removed mutawalli or members of the removed committee, make an order directing the delivery of charge and also delivery of possession of such records,

accounts and properties (including cash) of the wakf to the successor mutawalli or the successor committee, as the case may be, within such time as may be specified in the order.

(3) Where the removed mutawalli or any member of the removed committee, omits or fails to deliver charge or to deliver possession of the records, accounts and properties (including cash) within the time specified by the Magistrate under sub-section (2), the removed mutawalli or every member of such removed committee, as the case may be, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(4) Whenever any removed mutawalli or any member of the removed committee omits or fails to comply with the orders made by a Magistrate under sub-section (2), the Magistrate may authorise the successor mutawalli or successor committee, as the case may be, to take over charge and also to take possession of such records, accounts or properties (including cash) and may authorise such person to take such police assistance as may be necessary for the purpose.

(5) No order of appointment of the successor mutawalli or successor committee, and no certificate granted by the Wakf Commissioner under sub-section (2), shall be called in question in the proceedings before the Magistrate under this section.

(6) Nothing contained in this section shall bar the institution of any suit in a competent civil court by any person aggrieved by any order made under this section, to establish that he has right, title and interest in the properties specified in the order made by the Magistrate under sub-section (2).

43F. (1) Whenever the Wakf Commissioner is satisfied, whether on his own motion or on the application of not less than five persons interested in any wakf, that it is necessary or desirable to frame a scheme for the proper administration of the wakf, he may, after consultation in the prescribed manner with the mutawalli of the wakf, and where any application is made to him, with the applicants, by an order, frame such scheme for the administration of the wakf.

(2) A scheme framed under sub-section (1) may provide for the removal of the mutawalli of the wakf holding office as such immediately before the date on which the scheme comes into force:

Provided that where any such scheme provides for the removal of any hereditary mutawalli, the scheme shall also provide for the appointment of the person next in hereditary succession to the mutawalli so removed, as one of the members of the committee appointed for the proper administration of the wakf.

(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publication, shall be final and binding on the mutawalli and all persons interested in the wakf:

Provided that any person aggrieved by an order made under sub-section (1) or sub-section (2), may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order:

Provided further that the Tribunal shall have no power to make any order staying the operation of the order made under sub-section (1) or sub-section (2).

(4) The Wakf Commissioner may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme which has been framed under this section.

(5) Pending the framing of the scheme for the proper administration of the wakf, the Wakf Commissioner may appoint a suitable person to perform all or any of the functions of the mutawalli thereof and to exercise the powers, and perform the duties, of such mutawalli.

Amend-
ment of
section
44.

44. In section 44 of the principal Act,—

(i) for the word "Board", at both the places where it occurs, the words "Wakf Commissioner" shall be substituted;

(ii) for the words "it shall take such action thereon as it thinks fit", the words "he shall take such action thereon as he thinks fit" shall be substituted.

Amend-
ment
of sec-
tion 45.

45. In section 45 of the principal Act,—

(a) in sub-section (1),—

(i) for the word "Board", the words "Wakf Commissioner" shall be substituted;

(ii) for the words "its own motion", the words "his own motion" shall be substituted;

(iii) for the words "as it thinks fit", the words "as he thinks fit" shall be substituted;

(b) in sub-section (2), for the words "the Board or any person authorised by it", the words "the Wakf Commissioner or any person authorised by him" shall be substituted;

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

"(3) The Wakf Commissioner holding any inquiry under sub-section (1), shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850."

Amend-
ment
of sec-
tion 46.

46. In section 46 of the principal Act,—

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

'(1) The mutawalli of every wakf, the net annual income of which is not less than one thousand rupees, shall pay

annually, out of the net annual income derived by the wakf, such contribution, not exceeding six per cent. of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the wakf.

Explanation I.—For the purposes of this Act, “net annual income” shall mean the gross income of the wakf from all sources, including *nazaras* and offerings which do not amount to contributions to the corpus of the wakfs, in a year after deducting therefrom, the following, namely:—

(i) the land revenues paid by it to the Government, including cesses paid to local authorities;

(ii) the rates, taxes and licence fees, if any, paid by it to the Government or any local authority;

(iii) expenditure incurred for all or any of the following purposes, namely:—

(a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation;

(b) seeds or seedlings;

(c) manure;

(d) purchase, and maintenance, of agricultural implements;

(e) purchase, and maintenance, of cattle for cultivation;

(f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations:

Provided that the total deduction in respect of an expenditure incurred under this clause shall not exceed ten per cent. of the income derived from the lands belonging to the wakf;

(iv) expenditure on sundry repairs to rented buildings, not exceeding five per cent. of the annual rent derived therefrom, or the actual expenditure, whichever is less;

(v) sale proceeds of immovable properties or rights relating to, or arising out of, immovable properties, if such proceeds are re-invested to earn income for the wakf:

Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely:—

(a) advances and deposits recovered and loans taken or recovered;

(b) deposits made as security by employees, lessees, or contractors and other deposits, if any;

(c) withdrawals from banks or of investments;

(d) amounts recovered towards costs awarded by courts;

(e) sale proceeds of religious books and publications where such sales are undertaken as an unremunerative enterprise with a view to propagating religion;

(f) donations in cash or kind or offerings made by the donors as contribution to the corpus of the wakf:

Provided that the interest on income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income;

(g) voluntary contributions received in cash or kind for a specific service to be performed by the wakf and expended on such service;

(h) audit recoveries.

Explanation II.—In determining the net annual income for the purposes of this section, only the net profit derived by any wakf from its remunerative undertakings, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the public or fees collected from the pupils of educational institutions shall not be taken as income.;

(b) in sub-section (2), for the words "any particular wakf", the words "any mosque or orphanage or any particular wakf" shall be substituted;

(c) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(6) Where, after the commencement of the Wakf (Amendment) Act, 1984, the mutawalli of a wakf fails to submit a return of the net annual income of the wakf within the time specified therefor or submits a return which, in the opinion of the Wakf Commissioner, is incorrect or false in any material particular, or which does not comply with the provisions of this Act or any rule or order made thereunder, the Wakf Commissioner may, assess the net annual income of the wakf to the best of his judgment or revise the net annual income as shown in the return submitted by the mutawalli and the net annual income as so assessed or revised shall be deemed to be the net annual income of the wakf for the purposes of this section:

Provided that no assessment of net annual income or revision of return submitted by mutawalli shall be made except

after giving a notice to the mutawalli calling upon him to show cause, within the time specified in the notice, as to why such assessment or revision of the return shall not be made and every such assessment or revision shall be made after considering the reply, if any, given by the mutawalli.

(7) Any mutawalli who is aggrieved by the assessment or revision made by the Wakf Commissioner under sub-section (6) may prefer an appeal to the State Government within thirty days from the date of the receipt of the assessment or revision of return and the State Government may, after giving the appellant and the Wakf Commissioner a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return and the decision of the State Government shall be final.

(8) If, for any reason, the contribution or any portion thereof leviable under this section has escaped assessment in any year, whether before or after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner may, within five years from the last date of the year to which such escaped assessment relates, serve upon the mutawalli a notice assessing him with the contribution or portion thereof which had escaped assessment, and demanding payment thereof within thirty days from the date of service of such notice, and the provisions of this Act and the rules made thereunder, shall, as far as may be, apply as if the assessments were made under this Act in the first instance.”

47. After section 46 of the principal Act, the following sections shall be inserted, namely:—

“46A. (1) Notwithstanding anything contained in any other law for the time being in force, the Wakf Commissioner, if he is satisfied that it is necessary and expedient so to do, make an order directing any bank in which, or any person with whom, any money belonging to a wakf is deposited, to pay the contribution, leviable under section 46, out of such money, as may be standing to the credit of the wakf in such bank or may be deposited with such person, or out of the monies which may, from time to time, be received by such bank or other person for or on behalf of the wakf by way of deposit, and on receipt of such orders, the bank or the other person, as the case may be, shall, when no appeal has been preferred under sub-section (3), comply with such orders, or where an appeal has been preferred under sub-section (3), shall comply with the orders made by the Tribunal on such appeal.

(2) Every payment made by a bank or other person in pursuance of any order made under sub-section (1) shall operate as a full discharge of the liability of such bank or other person in relation to the sum so paid.

(3) Any bank or other person who is ordered under sub-section (1) to make any payment may, within thirty days from

Inser-
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new
sections
46A and
46B.

Power
of Wakf
Commis-
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to direct
banks,
etc., to
make
payment.

the date of the order, prefer an appeal against such order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

(4) Every officer of the bank or other person who fails, without any reasonable excuse, to comply with the order made under sub-section (1) or, as the case may be, under sub-section (3), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

Deduction of contribution from perpetual annuity payable to the wakf.

46B. (1) Every authority empowered to disburse any perpetual annuity payable to a wakf under any law relating to the abolition of zamindaries or jagirs, or laying down land ceilings, shall, on receipt of a certificate from the Wakf Commissioner specifying the amount of contribution payable by the wakf under section 46 which remains unpaid, deduct before making payment of the perpetual annuity to the wakf, the amount specified in such certificate, and remit the amount so deducted to the Wakf Commissioner.

(2) Every amount remitted under sub-section (1) to the Wakf Commissioner shall be deemed to be a payment made by the wakf and shall, to the extent of the amount so remitted, operate as a full discharge of the liability of such authority with regard to the payment of the perpetual annuity."

Insertion of new section 47A.

Mutawalli not to lend or borrow moneys without sanction

48. After section 47 of the principal Act, the following section shall be inserted, namely:—

"47A. (1) Notwithstanding anything contained in a deed of wakf, no mutawalli, Executive Officer or other person in charge of the administration of a wakf shall lend any money belonging to the wakf or any wakf property or borrow any money for the purposes of the wakf except with the previous sanction of the Wakf Commissioner.

(2) The Wakf Commissioner may, while according sanction, specify any terms and conditions subject to which the person referred to in sub-section (1) is authorised by him to lend or borrow any money or lend any other wakf property.

(3) Where any money is lent or borrowed, or other wakf property is lent in contravention of the provisions of this section, it shall be lawful for the Wakf Commissioner—

(a) to recover an amount equal to the amount which has been so lent, or borrowed, together with interest due thereon, from the personal funds of the person by whom such amount was lent or borrowed;

(b) to recover the possession of the wakf property lent in contravention of the provisions of this Act, from the person to whom it was lent, or from persons who claim title to such property through the person to whom such property was lent".

49. Section 49 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sectons shall be inserted, namely:—

(2) On receipt of the budget forwarded to it under sub-section (1), the State Government shall examine the same and suggest such alterations, corrections, or modifications to be made therein as it may think fit and forward such suggestions to the Board for its consideration.

(3) On receipt of the suggestions from the State Government, the Board may make written representations to that Government with regard to the alterations, corrections or modifications suggested by that Government, and the State Government shall after considering such representations, communicate, within a period of three weeks from the date of receipt thereof, to the Board its final decision in relation to the matter and the decision of the State Government shall be final.

(4) On receipt of the decision of the State Government under sub-section (3), the Board shall incorporate in its budget all the alterations, corrections, modifications finally suggested by the State Government and the budget as so altered, corrected or modified, shall be the budget which shall be passed by the Board.”

50. In sub-section (2) of section 51 of the principal Act, after the words “auditor shall, among other things, specify”, the following words shall be inserted, namely:—

“whether the accounts of every wakf under the direct management of the Board have been kept separately and whether such accounts have been audited annually by the State Examiner of Local Funds and shall also specify”.

51. For section 55 of the principal Act, the following section shall be substituted, namely:—

“55. (1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit for the determination of any dispute, question or other matter relating to a wakf or wakf property which such Tribunal is, or may be, required to determine under this Act or any rule or order made thereunder, and may, by the same or subsequent notification in the Official Gazette, define the local limits of the area in relation to which each Tribunal appointed by it shall exercise jurisdiction under this Act.

(2) Any mutawalli of a wakf, person interested in a wakf or any other person aggrieved by any order made under this Act or any rule or order made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the wakf.

(3) Where any application made under sub-section (1) relates to any wakf property which falls within the territorial limits of the

Amend-
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49.

Amend-
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tion 51.

Substitu-
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tion 55.
Appoint-
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jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the wakf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter:

Provided that the State Government may, if it is of opinion that it is expedient in the interests of the wakf or any other person interested in the wakf or the wakf property, to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such wakf or wakf property, transfer such application to any other Tribunal having jurisdiction, and, on such transfer, the Tribunal to which the application is so transferred shall deal with the application from the stage which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interests of justice to deal with the application afresh.

(4) Every Tribunal shall consist of one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District and Sessions Judge or of a Civil Judge, Class I, and the appointment of every such person may be made either by name or by designation.

(5) The Tribunal shall be deemed to be a civil court and shall have the same powers as may be exercised by a civil court under the Code of Civil Procedure, 1908, while trying a suit, or executing a decree or order.

(6) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Tribunal shall follow such procedure as may be prescribed:

Provided that where any procedure, different from the prescribed procedure, is specified by this Act, the Tribunal shall follow the procedure specified by this Act.

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.

(8) Execution of any decision of the Tribunal shall be made by the civil court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908.

(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal:

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit."

5 of 1908.

5 of 1908.

5 of 1908.

52. After section 55 of the principal Act, the following sections shall be inserted, namely:—

Inser-
tion of
new
sections
55A to
55F.

"55A. Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a wakf or wakf property it shall hold its proceedings as expeditiously as possible and shall, as soon as practicable, on the conclusion of the hearing of such matter, give its decision in writing under its signature and furnish a copy of such decision to each of the parties who were present before it at the time of the decision and, where any party was not present at the time aforesaid, send a copy of such decision to such party by registered post.

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decision.

Amend-
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sions.

55B. Clerical or arithmetical mistakes in any decision or order of a Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal by which such decision was given or order was made, either on its own motion or on the application of any of the parties to the proceeding, and, whenever any such correction is made, a copy of the decision or order, as so corrected, shall be furnished to each of the parties who were present before the Tribunal at the time of making such correction, and, where any party was not so present, shall be sent to such party by registered post.

Bar of
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ction of
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in res-
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matters
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55C. No suit or other legal proceeding shall lie in any civil court in respect of any dispute, question or other matter relating to any wakf, wakf property or other matter which is required by, or under, this Act to be determined by a Tribunal.

Appoint-
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a recei-
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certain
cases.

5 of 1908.

55D. Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, where any suit or other legal proceeding is instituted or commenced—

(a) by or on behalf of a Board—

(i) to set aside the sale of any immovable property, which is wakf property, in execution of a decree or order of a civil court;

(ii) to set aside the transfer of any immovable property, which is wakf property, made by the mutawalli thereof, whether for valuable consideration or not, without, or otherwise than in accordance with, the sanction of the Board;

(iii) to recover possession of the property referred to in clause (a) or clause (b) or to restore possession of such property to the mutawalli of the concerned wakf; or

(b) by a mutawalli to recover possession of immovable property, which is wakf property, which has been transferred by a

previous mutawalli, whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board, and which is in the possession of the defendant,

the court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property, such amount as the court may consider to be necessary for further prosecution of the suit.

Bar to the enforcement of right on behalf of unregistered wakfs.

55E. (1) Notwithstanding anything contained in any other law for the time being in force, no suit, appeal or other legal proceeding for the enforcement of any right on behalf of any wakf which has not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after the commencement of the Wakf (Amendment) Act, 1984, or where any such suit, appeal or other legal proceeding had been instituted or commenced before such commencement, no such suit, appeal or other legal proceeding shall be continued, heard, tried or decided by any court after such commencement unless such wakf has been registered, after such commencement, in accordance with the provisions of this Act.

(2) The provisions of sub-section (1) shall apply, as far as may be, to the claim for set-off or any other claim made on behalf of any wakf which has not been registered in accordance with the provisions of this Act.

55F. Save as otherwise expressly provided in this Act, no notification or order or decision made, proceeding or action taken, by the Central Government or the State Government under this Act or any rule made thereunder shall be questioned in any civil court.”.

Bar to the challenge of the validity of any notification, etc.

Amendment of section 57.

Amendment of section 58.

53. In sub-section (1) of section 57 of the principal Act,—

(a) for the words “title to wakf property”, the words “title to, or possession of, wakf property” shall be substituted;

(b) for the words “or the right of a mutawalli, the court”, the words “or the right of a mutawalli or beneficiary, the court or Tribunal” shall be substituted.

54. In section 58 of the principal Act,—

(a) in sub-section (1),—

(i) after the words and figures “Land Acquisition Act, 1894”, the words “or under any other law for the time being in force relating to the acquisition of land or other property” shall be inserted;

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

Explanation.—The reference to Collector in the foregoing provisions of this sub-section shall, in relation to any other law referred to therein, be construed, if the Collector is not the competent authority under such other law to make an award of the compensation or other amount payable for acquisition of land or other property thereunder, as a reference to the authority under such other law competent to make such award.”;

1 of 1894.

1 of 1894.

(b) in sub-section (3), after the words and figures "Land Acquisition Act, 1894", the words, brackets and figure "or under the corresponding provisions of the other law referred to in sub-section (1)" shall be inserted;

(c) in sub-section (4), after the words and figures "Land Acquisition Act, 1894", the words, brackets and figure "or under the corresponding provisions of the other law referred to in sub-section (1)" shall be inserted.

55. In section 59 of the principal Act, for the word "Board", the words "Wakf Commissioner" shall be substituted.

Amendment
of sec-
tion 59.
Amend-
ment of
section
61.

56. In section 61 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "the Board may apply", the words "the Wakf Commissioner may apply" shall be substituted;

(ii) for the words "to pay to the Board or to any person authorised by the Board", the words "to pay to the Wakf Commissioner or to any person authorised by the Wakf Commissioner" shall be substituted;

(b) in sub-section (2), for the word "Board", the words "Wakf Commissioner" shall be substituted.

57. In Chapter VII of the principal Act, after section 61, the following section shall be inserted, namely:—

Inser-
tion of
new
section
61A.

"61A. Where, under this Act, any period has been specified for the filing of any appeal, the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period so specified, entertain the appeal after the expiry of the said period."

Power
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period.

58. For section 62 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
section
62.

"62. (1) For the purpose of regulating the secular activities of wakfs, the Central Government shall have the following powers and functions, namely:—

Powers
of Cen-
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to regu-
late the
secular
activi-
ties of
wakfs.

(a) to lay down general principles and policies of wakf administration in so far as they relate to the secular activities of the wakfs;

(b) to co-ordinate the functions of the Central Wakf Council, the Wakf Commissioners and the Board, in so far as they relate to their secular functions;

(c) to review administration of the secular activities of wakfs generally and to suggest improvements, if any.

(2) In exercising its powers and functions under sub-section (1), the Central Government may call for any periodic or other reports from any Board or Wakf Commissioner and may issue to the Board or Wakf Commissioner such directions as it may think fit and in the performance of their functions, the Board and the Wakf Commissioners shall comply with such directions.”.

Inser-
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new sec-
tions
63A and
63B.

Annual
report
by the
State
Govern-
ment.

Powers of
revision
of the
State
Govern-
ment.

59. After section 63 of the principal Act, the following sections shall be inserted, namely:—

“63A. As soon as may be after the close of a financial year, the State Government shall cause a general annual report on the working and administration of the State Wakf Board and the administration of wakfs in the State during that year to be prepared and laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, and every such report shall be in such form and shall contain such matters as may be prescribed.

63B. (1) Save as otherwise provided in this Act, the State Government may either on its own motion or on an application made to it by a mutawalli or any other person interested in the wakf, call for and examine the record of the Board or Wakf Commissioner, as the case may be, in respect of any proceeding (not being a proceeding relating to a matter in respect of which a suit has been instituted, appeal has been filed or application has been made to a court or any proceeding arising out of an application made to the Tribunal or an appeal to the State Government as provided by this Act), to satisfy itself as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed in such proceedings, and, if in any case, it appears to the State Government that any such decision or order should be modified, annulled, reversed or remitted to the Board for reconsideration, the State Government may pass orders accordingly:

Provided that no such order shall be made except after giving to the person who is likely to be prejudicially affected thereby a reasonable opportunity of making his representations against the proposed action.

(2) No application shall be entertained under sub-section (1) in respect of any matter unless an application in relation to the said matter had already been made to the Board and had been disposed of by the Board or, where the application relates to any matter in respect of which the Wakf Commissioner is empowered by or under this Act to exercise any power, unless an application had been made to the Wakf Commissioner and has been disposed of by him.

(3) Every application referred to in sub-section (1) shall be made within a period of three months from the date on which the order made in the proceeding to which the application relates, was communicated to the applicant.”.

60. In sub-section (1) of section 64 of the principal Act, after the words “or has exceeded or abused its powers”, the words and figures “or has wilfully and without sufficient cause failed to comply with any direction issued by the Central Government under section 62 or the State Government under section 63, or if the State Government is satisfied on a consideration of any report submitted after annual inspection, that the Board’s continuance is likely to be injurious to the interests of the wakfs in the State” shall be inserted.

Amend-
ment
of sec-
tion 64.

61. In section 65 of the principal Act, for the words “the Commissioner”, the words “the Wakf Commissioner or the Survey Commissioner” shall be substituted.

Amend-
ment of
section
65.

62. For section 66 of the principal Act, the following section shall be substituted, namely:—

Substi-
tion of
section
66.

“66. (1) The Wakf Commissioner, Survey Commissioner, members of the Board, every auditor, every officer and servant of the Board and every other person duly appointed to discharge any duties imposed on him by this Act or any rule or order made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Wakf
Commis-
sioner,
mem-
bers
of Board,
etc.,
to be
deemed
to be
public
servants.

45 of 1860.

(2) Every mutawalli of a wakf, every member of managing committee, whether constituted by the Board or under any deed of wakf, every Executive Officer and every person holding any office in a wakf shall also be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.”.

45 of 1860.

63. In section 66A of the principal Act,—

Amend-
ment of
section
66A.

(a) in sub-section (1),—

37 of 1956.

(i) for the words and figures “under the States Reorganisation Act, 1956”, the words “under any law providing for reorganisation of States” shall be substituted;

(ii) for the figures, letters and words “1st day of November, 1956”, the words “the date of such reorganisation” shall be substituted;

(iii) for the words “it should be reconstituted or reorganised as an intra-State Board”, the words “it should be reconstituted as an intra-State Board” shall be substituted;

(iv) for the words “such reconstitution and reorganisation, as the case may be”, the words “such reconstitution” shall be substituted;

(b) in sub-section (3),—

(i) in clause (b), for the words “reconstitution and reorganisation”, the word “reconstitution” shall be substituted;

(ii) in clause (f), for the words and figures "subject to the provisions of section 111 of the States Reorganisation Act, 1956", the words "subject to the provisions of law providing for the reorganisation of the concerned State" shall be substituted.

37 of 1956.

Amend-
ment of
section
66B.

64. In sub-section (1) of section 66B of the principal Act, for the words and figures "the States Reorganisation Act, 1956, this Act is, as from the 1st day of November, 1956, applicable", the words "any law providing for the reorganisation of any State, this Act is, as from the date on which that law comes into force, applicable" shall be substituted.

37 of 1956.

Insertion of
new sec-
tions 66D
to 66H.

65. After section 66C of the principal Act, the following sections shall be inserted, namely:—

Powers of
Board and
Wakf.
Commis-
sioner to
require
copies of
docu-
ments,
etc., to be
furnished.

"66D. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Board, or the Wakf Commissioner to require any person having the custody of any record, register, report or other document relating to a wakf or any immovable property which is wakf property, to furnish, subject to the payment of necessary costs, copies of, or extracts from, any such record, register, report or document and every person to whom such a requisition is made, shall furnish, as soon as may be practicable, to the Board or Wakf Commissioner copies or extracts from the required record, register, report or other document.

Institution
of suit or
legal pro-
ceedings
in certain
cases.

66E. Notwithstanding anything contained in any other law for the time being in force, no suit or other legal proceeding in respect of the administration or management of a wakf, or any other matter or dispute for the determination or decision of which provisions have been made in this Act, shall be instituted in any court or Tribunal except under, and in accordance with, the provision of this Act.

Power of
Central
Govern-
ment to
constitute
common
Boards.

66F. (1) Where the Central Government is satisfied that by reason of—

- (i) the smallness of the Muslim population in two or more States,
- (ii) the slender resources of the wakf in such States, and
- (iii) the disproportion between the number and income of the wakfs and the Muslim population in such States,

it is expedient in the interests of the wakfs in the States and the Muslim population of such States, to have, instead of separate Boards for each of such States, a common Board, it may, after consultation with the Government of each of the concerned States, establish, by notification in the Official Gazette, a common Board for such States as it may deem fit, and may, by the same or any subsequent notification, specify the place at which the principal office of such common Board shall be located.

(2) Every common Board established under sub-section (1) shall, as far as practicable, consist of the persons specified in sub-section (1), or, as the case may be, sub-section (2) of section 10.

(3) Whenever any common Board is established under sub-section (1),—

(a) all powers vested in the State Government under any deed of wakf or any provision of law for the time being in force relating to wakfs, shall become transferred to, and vested in, the Central Government and, thereupon, references in such deed of wakf or law to the State Government shall be construed as references to the Central Government:

Provided that while establishing a common Board for two or more States, the Central Government shall ensure that at least one representative of each of the concerned States is included as a member of the Board;

(b) references in this Act to a State shall be construed as references to each of the States for which the common Board has been established;

(c) the Central Government may, without prejudice to any rule applicable to a Board in a State, make, by notification in the Official Gazette, rules regulating the conduct of business by, and affairs of, the common Board.

(4) The common Board shall be a body corporate, with objects not confined to one State, having perpetual succession and a common seal with power to acquire and hold property and to transfer any such property, subject to such conditions and restrictions as may be specified by the Central Government, and shall by the said name sue or be sued.

36 of 1963.

66G. Notwithstanding anything contained in the Limitation Act, 1963, the period of limitation for any suit for possession of immoveable property comprised in any wakf or possession of any interest in such property shall be a period of thirty years and such period shall begin to run when the possession of the defendant becomes adverse to the plaintiff.

31 of 1950.

66H. The provisions of this Act shall apply, and shall be deemed always to have applied, in relation to any evacuee property within the meaning of clause (f) of section 2 of the Administration of Evacuee Property Act, 1950 which immediately before it became such evacuee property within the said meaning was property comprised in any wakf and, in particular, any entrusment (whether by transfer of any documents or in any other manner and whether generally or for specified purposes) of any such property to a Board made before the commencement of the Wakf (Amendment) Act, 1984 in pursuance of the instructions of the Custodian under the Administration of Evacuee Property Act, 1950 shall have, and shall be deemed always to have had, notwithstanding anything contained in any other provision of this Act, effect as if such entrusment had operated to—

31 of 1950.

(a) vest such property in such Board in the same manner and with the same effect as in a trustee of such property for the purposes of sub-section (1) of section 11 of the Administration of Evacuee Property Act, 1950 with effect from the date of such entrusment, and

Period of limitation for recovery of wakf properties to be thirty years.

Special provision as to evacuee wakf properties.

(b) authorise such Board to assume direct management of the wakf concerned for so long as it might deem necessary.”.

Amend-
ment of
section 67.

66. In sub-section (2) of section 67 of the principal Act,—

(i) clause (d) shall be omitted;

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

“(n) the manner of election of members of the Board by means of a single transferable vote to be prescribed under section 10;

(o) the scale of pay, allowances and other conditions of service of officers and other employees appointed by the Wakf Commissioner under section 21B;

(p) the conditions and restrictions subject to which the Wakf Commissioner and any authorised officer of the Board may inspect any record, register or other document in a public office in pursuance of the provisions of section 22B;

(q) the conditions subject to which an Executive Officer may be appointed under section 26A and salaries and allowances of such Executive Officer;

(r) the manner in which an inquiry may be held by the Wakf Commissioner under section 26B with regard to wakfs which appear to have ceased to exist or in relation to buildings, or other places which were being used for religious purposes or instruction or for charity, which have ceased to be used for that purpose;

(s) the manner in which the Wakf Commissioner may give notice to the mutawalli under sub-section (2) of section 31;

(t) the form in which, and the time within which, a separate budget for wakfs under the direct management of the Board shall be prepared as required by section 31A;

(u) the intervals at which accounts of wakfs may be audited in pursuance of the provisions of sub-section (1) of section 33;

(v) the time within which the sale of any property is to be confirmed under the first proviso to sub-section (2) of section 36A, and the manner in which the approval given under sub-section (3) of that section shall be published;

(w) the manner of service of notice issued under sub-section (1) of section 36D and the manner in which any inquiry is to be made under sub-section (3) of that section;

(x) the other matters which may be specified in the report submitted under sub-section (3) of section 43A;

(y) manner of publication of order made under sub-section (2) of section 43C;

- (z) the manner in which consultation may be made with a mutawalli under sub-section (1) of section 43F;
- (za) manner of publication of order made under sub-section (2) of section 43F;
- (zb) the rate at which contribution is to be made by a mutawalli under section 46;
- (zc) time within which application is to be made to the Tribunal under sub-section (2) of section 55 for the determination of any dispute, question or other matter relating to a wakf or wakf property;
- (zd) the procedure which a Tribunal shall follow under sub-section (6) of section 55;
- (ze) the form in which an annual report is to be submitted under section 63A and the matters which such report shall contain;
- (zf) rules regulating the conduct of business by, and affairs of, the common Board under clause (c) of sub-section (3) of section 66F;
- (zg) any other matter which is required to be, or may be, prescribed.”.

67. After section 67 of the principal Act, the following section shall be inserted, namely:—

“**67A.** Every rule made by the Central Government under section 66F 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.”.

68. In section 69 of the principal Act, in sub-section (1), after clause (3), the following clause shall be inserted, namely:—

“(3A) On and from the commencement of the Wakf (Amendment) Act, 1984, sections 92 and 93 of the Code of Civil Procedure, 1908;”.

Insertion
of new
section
67A.

Rules
made
by the
Central
Govern-
ment to
be laid
before
Parlia-
ment.

Amend-
ment
of sec-
tion 69.

THE CONSTITUTION (FORTY-SEVENTH AMENDMENT)
ACT, 1984

[26th August, 1984.]

An Act further to amend the Constitution of India.

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

Short title.

Amend-
ment of
the Ninth
Sche-
dule.

1. This Act may be called the Constitution (Forty-seventh Amendment) Act, 1984.

2. In the Ninth Schedule to the Constitution, after entry 188 and before the *Explanation*, the following entries shall be inserted, namely:—

"189. The Assam (Temporarily Settled Areas) Tenancy Act, 1971 (Assam Act XXIII of 1971).

190. The Assam (Temporarily Settled Areas) Tenancy (Amendment) Act, 1974 (Assam Act XVIII of 1974).

191. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) (Amending) Act, 1974 (Bihar Act 13 of 1975).

192. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976 (Bihar Act 22 of 1976).

193. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1978 (Bihar Act VII of 1978).

194. The Land Acquisition (Bihar Amendment) Act, 1979 (Bihar Act 2 of 1980).

195. The Haryana Ceiling on Land Holdings (Amendment) Act, 1977 (Haryana Act 14 of 1977).

196. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1978 (Tamil Nadu Act 25 of 1978).

197. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979).

198. The Uttar Pradesh Zamindari Abolition Laws (Amendment) Act, 1978 (Uttar Pradesh Act 15 of 1978).

199. The West Bengal Restoration of Alienated Land (Amendment) Act, 1978 (West Bengal Act XXIV of 1978).

200. The West Bengal Restoration of Alienated Land (Amendment) Act, 1980 (West Bengal Act LVI of 1980).

201. The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Goa, Daman and Diu Act 7 of 1964).

202. The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976 (Goa, Daman and Diu Act 17 of 1976)."

THE CONSTITUTION (FORTY-EIGHTH AMENDMENT)
ACT, 1984

[26th August, 1984.]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Forty-eighth Amendment) Act, 1984.

Short title.

2. In article 356 of the Constitution, in clause (5), the following proviso shall be inserted at the end, namely:—

Amendment of article 356.

'Provided that in the case of the Proclamation issued under clause (1) on the 6th day of October, 1983 with respect to the State of Punjab, the reference in this clause to "any period beyond the expiration of one year" shall be construed as a reference to "any period beyond the expiration of two years".'

THE CONSTITUTION (FORTY-NINTH AMENDMENT)
ACT, 1984

[11th September, 1984.]

An Act further to amend the Constitution of India.]

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

Short title and commencement.

Amendment of article 244.

Amendment of the Fifth Schedule.

Amendment of the Sixth Schedule.

1. (1) This Act may be called the Constitution (Forty-ninth Amendment) Act, 1984.

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

2. In article 244 of the Constitution, in clauses (1) and (2), for the words "and Meghalaya", the words ", Meghalaya and Tripura" shall be substituted.

3. In the Fifth Schedule to the Constitution, in paragraph 1, for the words "and Meghalaya", the words ", Meghalaya and Tripura" shall be substituted.

4. In the Sixth Schedule to the Constitution,—

(a) in the heading, for the words "and Meghalaya", the words ", Meghalaya and Tripura" shall be substituted;

(b) in sub-paragraph (1) of paragraph 1, for the words and figures "Parts I and II", the words, figures and letter "Parts I, II and IIIA" shall be substituted;

(c) after paragraph 12A, the following paragraph shall be inserted, namely:—

"12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State of Tripura.—Notwithstanding anything in this Constitution,—

(a) if any provision of a law made by the District or a Regional Council in the State of Tripura with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Tripura with respect to that matter, then, the law

Ist April 1985, vide Notification No. S.O. 184(E), dated 11-3-1985, Gazette of India, Extraordinary, Part II Section 3(ii).

or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Tripura, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Tripura shall prevail;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”;

(d) in paragraph 17, after the words “or Meghalaya”, at both the places where they occur, the words “or Tripura” shall be inserted;

(e) in paragraph 20,—

(i) in sub-paragraph (1),—

(A) after the words and figures “in Parts I, II”, the figures and letter “, IIA” shall be inserted;

(B) after the words “the State of Meghalaya”, the words “, the State of Tripura” shall be inserted;

(ii) in sub-paragraph (2), for the words “Any reference in the table below”, the words and figures “Any reference in Part I, Part II or Part III of the table below” shall be substituted;

(iii) after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:

(3) The reference in Part IIA in the table below to the “Tripura Tribal Areas District” shall be construed as a reference to the territory comprising the tribal areas specified in the First Schedule to the Tripura Tribal Areas Autonomous District Council Act, 1979.”;

(f) in the Table, after Part II and the entries relating thereto, the following Part shall be inserted, namely:—

“PART IIA

“Tripura Tribal Areas District.”.

THE CONSTITUTION (FIFTIETH AMENDMENT)
ACT, 1984

[11th September, 1984.]

An Act further to amend the Constitution of India.

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

Short title.

1. This Act may be called the Constitution (Fiftieth Amendment) Act, 1984.

Substitution of article 33.

2. For article 33 of the Constitution, the following article shall be substituted, namely:—

“33. Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

Power of Parliament to modify the rights conferred by this Part in their application to forces, etc.

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (d) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.”

INDEX

	PAGE
A	
ACQUISITION	
Aluminium Corporation of India Limited (— and Transfer of Aluminium Undertaking) Act	356
Bengal Immunity Company Limited (— and Transfer of Undertakings) Act	511
Ganesh Flour Mills Company Limited (— and Transfer of Undertakings) Act	100
Hooghly Docking and Engineering Company Limited (— and Transfer of Undertakings) Act	493
Mogul Line Limited (— of Shares) Act	307
ADDITIONAL DUTIES OF EXCISE	
— (Goods of Special Importance) Amendment Act	215
ALUMINIUM CORPORATION	
— of India Limited (Acquisition and Transfer of Aluminium Undertaking) Act	356
APPROPRIATION	
— Act	74
— (No. 2) Act	79
— (No. 3) Act	131
— (No. 4) Act	404
Pondicherry —— Act	90
Pondicherry —— (No. 2) Act	396
Pondicherry —— (Vote on Account) Act	87
Punjab —— Act	97
Punjab —— (No. 2) Act	392
Punjab —— (Vote on Account) Act	93
— (Railways) Act	81
— (Railways) No. 2 Act	83
— (Railways) No. 3 Act	85
— (Vote on Account) Act	93

	PAGE
ASIATIC	
Society Act	60
AUDITOR-GENERAL'S	
Comptroller and Service) Amendment Act	(Duties, Powers and Conditions of Service) Amendment Act 50
B	
BANK	
Industrial Reconstruction of India Act	547
BANKING	
Laws (Amendment) Act, 1983	1
Laws (Amendment) Act, 1984	597
Service Commission Act	372
BENGAL IMMUNITY	
Company Limited (Acquisition and Transfer of Undertakings) Act	511
BHARATI	
Visva (Amendment) Act	252
C	
CESS	
Punjab Commercial Crops (Amendment) Act	201
CINEMATOGRAPH	
(Amendment) Act	510
COMMERCIAL CROPS	
Punjab Cess (Amendment) Act	201
COMMISSION	
Banking Service Act	372
University Grants (Amendment) Act	531
COMPANY LIMITED	
Ganesh Flour Mills (Acquisition and Transfer of Undertakings) Act	100
Hooghly Docking and Engineering (Acquisition and Transfer of Undertakings) Act	493
COMPENSATION	
Workmen's (Amendment) Act	194

COMPTROLLER AND AUDITOR-GENERAL'S ---(Duties, Powers and Conditions of Service) Amendment Act	5
CONSERVATION OF FOREIGN EXCHANGE ---and Prevention of Smuggling Activities (Amendment) Act	529
CONSTITUTION ---(Forty-seventh Amendment) Act	708
---(Forty-eighth Amendment) Act	709
---(Forty-ninth Amendment) Act	710
---(Fiftieth Amendment) Act	712
COPYRIGHT ---(Amendment) Act	599
CORPORATION Delhi Municipal ---(Amendment) Act	347
COUNCIL Indian Veterinary ---Act	458
COURTS Family ---Act	603
D	
DAMAGE TO PUBLIC PROPERTY Prevention of ---Act	53
DELEGATION OF POWERS Punjab State Legislature (---) Act	316
DELHI ---Development (Amendment) Act	319
---Municipal Corporation (Amendment) Act	347
---Rent Control (Amendment) Act	317
DEVELOPMENT AND REGULATION Industries (---) Amendment Act	55
DISPUTES Industrial ---(Amendment) Act	400

DOWRY PROHIBITION

----- (Amendment) Act 593

DUTIES OF EXCISE

Union ----- (Distribution) Amendment Act 211

Union ----- (Electricity) Distribution Amendment Act 213

E**ELECTRICITY**

----- Supply (Amendment) Act 399

Union Duties of Excise (-----) Distribution (Amendment) Act 213

EMPLOYEES/STATE

----- Insurance (Amendment) Act 386

ENGINEERING COMPANY

Hooghly Docking and ----- Limited (Acquisition and Transfer of Undertakings) Act 493

ESSENTIAL COMMODITIES

----- (Amendment) Act 310

ESTATE DUTY

----- (Amendment) Act 487

----- (Distribution) Amendment Act 306

EQUALISATION FUND

Levy Sugar Price ----- (Amendment) Act 489

EVICTION OF UNAUTHORISED OCCUPANTS

Public Premises (-----) Amendment Act 312

EXPORT

----- (Quality Control and Inspection) *Amendment Act 331

F**FAMILY COURTS**

----- Act

FINANCE

----- Act 141

FLOUR MILLS

Ganesh ----- Company Limited (Acquisition and Transfer of Undertakings) Act 100

FOREIGN EXCHANGE

Conservation of ----- and Prevention of Smuggling Activities
(Amendment) Act 529

FUND

Levy Sugar Price Equalisation ----- (Amendment) Act 489

G**GANESH FLOUR MILLS**

----- Company Limited (Acquisition and Transfer of Under-
takings) Act 100

GOODS OF SPECIAL IMPORTANCE

Additional Duties of Excise (-----) Amendment Act 215

GOVERNMENT OF UNION TERRITORIES

----- (Amendment) Act 139

GRANTS COMMISSION

University ----- (Amendment) Act 531

H**HOOGHLY DOCKING**

----- and Engineering Company Limited (Acquisition and Transfer
of Undertakings) Act 493

I**INCHEK TYRES**

----- Limited and National Rubber Manufacturers Limited
(Nationalisation) Act 114

INDUSTRIAL DISPUTES

----- (Amendment) Act 400

INDUSTRIAL RECONSTRUCTION

----- Bank of India Act 547

INDUSTRIES

----- (Development and Regulation) Amendment Act 55

INSURANCE

Employees' State ----- (Amendment) Act 386

L**LAND ACQUISITION**

----- (Amendment) Act 647

LAWS

Banking ----- (Amendment) Act, 1983 1

LAWS—<i>concl.</i>		
Banking	— (Amendment) Act, 1984	597
Taxation	— (Amendment) Act	611
LEVY SUGAR		
Price Equalisation Fund	(Amendment) Act	489
M		
MERCHANT SHIPPING		
— (Amendment) Act		340
MILLS		
Ganesh Flour	— Company Limited (Acquisition and Transfer of Under-takings) Act	100
MOGUL LINE LIMITED		
(Acquisition of Shares) Act		307
MONOPOLIES AND RESTRICTIVE TRADE PRACTICES		
— (Amendment) Act		217
MULTI-STATE CO-OPERATIVE		
Societies Act		407
MUNICIPAL CORPORATION		
Delhi	— (Amendment) Act	347
N		
NATIONALISATION		
Incek Tyres Limited and National Rubber Manufacturers Limited	(—) Act	114
NATIONAL SECURITY		
— (Amendment) Act		202
— (Second Amendment) Act		535
O		
OCCUPANTS		
Public Premises (Eviction of Unauthorised	—) Amendment Act	312
OILFIELDS		
— (Regulation and Development) Amendment Act		140
P		
PAYMENT OF GRATUITY		
— (Amendment) Act		204
— (Second Amendment) Act		208

PONDICHERRY

Appropriation Act	90
Appropriation (No. 2) Act	396
(Vote on Account) Act	87

POWERS AND CONDITIONS OF SERVICE

Comptroller and Auditor-General's (Duties) Amendment Act	50
---	----

PRACTICES

Monopolies and Restrictive Trade (Amendment) Act	217
--	-----

PREVENTION OF DAMAGE

to Public Property Act	53
------------------------	----

PREVENTION OF SMUGGLING

Conservation of Foreign Exchange and Activities (Amendment) Act	529
---	-----

PUBLIC PREMISES

(Eviction of Unauthorised Occupants Amendment Act	312
---	-----

PUBLIC PROPERTY

Prevention of Damage to Act	53
-----------------------------	----

PUNJAB APPROPRIATION

Act	97
(No. 2) Act	392
(Vote on Account) Act	93

PUNJAB COMMERCIAL CROPS

Cess (Amendment) Act	201
----------------------	-----

PUNJAB MUNICIPAL

(New Delhi Amendment) Act	324
---------------------------	-----

PUNJAB STATE

Legislature (Delegation of Powers) Act	316
--	-----

Q**QUALITY CONTROL AND INSPECTION**

Export () Amendment Act	331
--------------------------	-----

R**RECONSTRUCTION BANK**

Industrial ——————of India Act 547

REGULATION AND DEVELOPMENT

Oilfields (—————) Amendment Act 140

RENT CONTROL

Delhi—————(Amendment) Act 317

RUBBER MANUFACTURERS

Incek Tyres Limited and National——— Limited (Nationalisation) Act 114

S**SHIPPING**

Merchant—————(Amendment) Act 340

SMUGGLING ACTIVITIES

Conservation of Foreign Exchange and Prevention of (Amendment) Act 529

SPECIAL COURTS

Terrorist Affected Areas (—————) Act 537

SOCIETY

Asiatic—————Act 60

STATE INSURANCE

Employees—————(Amendment) Act 386

STATE LEGISLATURE

Punjab—————(Delegation of Powers) Act 316

T**TAXATION LAWS**

—————(Amendment) Act 611

TERRITORIES

Government of Union—————(Amendment) Act 139

TERRORIST AFFECTED

Areas (Special Courts) Act 537

TRADE PRACTICES

Monopolies and Restrictive—————(Amendment) Act 217

PAGE

TRANSFER OF ALUMINIUM UNDERTAKING

Aluminium Corporation of India (Acquisition and Transfer of) Act 356

TRANSFER OF UNDERTAKINGS

Bengal Immunity Company Limited (Acquisition and Transfer of) Act 511

Ganesh Flour Mills Company Limited (Acquisition and Transfer of) Act 100

Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of) Act 493

TYRES LIMITED

Incek and National Rubber Manufacturers Limited (Nationalisation) Act 114

U

UNAUTHORISED OCCUPANTS

Public Premises (Eviction of) Amendment Act 312

UNDERTAKINGS

Aluminium Corporation of India Limited (Acquisition and Transfer of Aluminium) Act 356

Bengal Immunity Company Limited (Acquisition and Transfer of) Act 511

Ganesh Flour Mills Company Limited (Acquisition and Transfer of) Act 100

Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of) Act 493

UNION DUTIES OF EXCISE

(Distribution) Amendment Act 211

(Electricity) Distribution (Amendment) Act 213

UNION TERRITORIES

Government of (Amendment) Act 139

UNIVERSITY GRANTS COMMISSION

(Amendment) Act 531

V

VETERINARY COUNCIL

Indian Veterinary Council Act 458

VISVA-BHARATI

(Amendment) Act 252

VOTE ON ACCOUNT

Appropriation (-----) Act	66
Pondicherry Appropriation (-----) Act	87
Punjab Appropriation (-----) Act	93

W**WAKF**

(Amendment) Act	657
---------------------------	-----

WORKMEN'S COMPENSATION

(Amendment) Act	194
---------------------------	-----