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LEGISLATION OF 2000**

**PART I.—CENTRAL ACTS AMENDED, REPEALED OR OTHERWISE AFFECTED**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 2000 Act by which affected
1	2	3	4	5
1859	9	Forfeiture Act, 1859	Repealed.	48, s. 2.
1860	45	Indian Penal Code, 1860	1st Schedule amended (w.e.f. ....).	21, s. 91.
1872	1	Indian Evidence Act, 1872	Second Schedule amended (w.e.f. ....).	21, s. 92.
1891	18	Bankers' Books Evidence Act, 1891	Third Schedule amended (w.e.f. ....).	21, s. 93.
1899	2	Indian Stamp Act, 1899	S. 8A substituted	10, s. 118.
1911	2	Designs Act, 1911	Repealed (w.e.f. ....).	16, s. 48.
1918	20	Indian Companies (Foreign Interests) Act, 1918	Repealed.	24, s. 2.
1918	23	Cotton Cloth Act, 1918	Repealed.	25, s. 2.
1920	34	Passport (Entry into India) Act, 1920	Ss. 3 and 4 amended, S. 3A inserted.	47, s. s. 2 and 4. <i>Ibid.</i> , s. 3.
1923	8	Workmen's Compensation Act, 1923	Ss. 2, 4, and 4A amended.	46, ss. 2,3 and 4.
1925	26	Indian Carriage of Goods by Sea Act, 1925	Article I amended.	44, s. 11.
1934	2	Reserve Bank of India Act, 1934	Fourth Schedule amendment (w.e.f. ....).	21, s. 94.
1934	22	Aircraft Act, 1934	S. 11A amended (w.e.f. ....).	51, s. 2.
1944	1	Central Excise Act, 1944	S.3 amended (w.e.f. 11-5-1982) S. 3A amended (w.e.f. 1-4-2000) S. 2A inserted S. 4 substituted (w.e.f 1-7-2000) Ss. 4A, 11, 11A, 11AA, 11AB, 11AC, 11B and 11 BB amended, S. 11D amended (w.e.f 20-9-1991). Ss. 14A, 14AA, 32B and 37 amended, Ss. 3 and 11A S. 32P inserted.	10, s. 92. <i>Ibid.</i> , s. 93. <i>Ibid.</i> , s. 91. <i>Ibid.</i> , s. 94. <i>Ibid.</i> , ss. 95 to 102. <i>Ibid.</i> , ss. 104, 105, 106 and 108 <i>Ibid.</i> , s. 109. <i>Ibid.</i> , s. 107.
1948	7	Cotton Textiles Cess Act, 1948	Repealed.	19, s.2.
1948	22	Indian Power Alcohol Act, 1948	Repealed.	32, s. 2.
1950	40	Army and Air Force (Dispose of Private Property) Act, 1950	Ss. 7, 10 and 14 amended.	31, ss. 2, 3 and 4.
1951	30	President's Emoluments and Pension Act, 1951	Ss. 2A and 3A inserted (w.e.f. ....).	14, ss. 2 and 3.

1	2	3	4	5
1951	63	State Financial Corporations Act, 1951	Ss. 2, 3A, 4, 4A, 13, 14, 17, 19, 23, 25, 28, 35, 36, 37, 37A, 38, 39, 40, 43, 43B, 46A, 48 and 48A amended. Ss. 5 to 10, 11, 12, 15, 18, 26, 34, 35A substituted. Ss. 10A and 47 omitted. s. 25B inserted.	39, ss. 2, 3, 4, 5, 10, 11, 13, 15, 16, 17, 20, 22, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35 and 36. <i>Ibid.</i> , ss. 7, 9, 12, 14, 19, 21 and 23. <i>Ibid.</i> , s. 8 and 34. <i>Ibid.</i> , s. 18.
1952	79	Iron and Steel Companies (Amalgamation) Act, 1952	Repealed.	26, s. 2.
1954	30	Salary, Allowances and Pension of Members of Parliament Act, 1954	Ss. 4 and 6B amended. S.8 amended (w.e.f. 26-4-1999) S. 6D substituted (w.e.f. ....).	17, ss. 2 and 3. <i>Ibid.</i> , s. 5. <i>Ibid.</i> , s. 4.
1955	16	Medicinal and Toilet Preparations (Excise Duties) Act, 1955.	Sixth Schedule amended	10, s. 11S.
1956	1	Companies Act, 1956	Ss. 2, 3, 4, 11, 16, 22, 25, 39, 40, 43A, 44, 49, 54, 56, 58A, 59, 60, 63, 67, 68, 69, 70, 72, 73, 75, 76, 77, 79, 80, 80A, 84, 89, 95, 97, 107, 108-1, 111, 113, 203, 205A, 209, 209A, 210, 211, 212, 215, 217, 218, 219, 220, 221, 223, 224, 226, 227, 232, 233, 233A, 233B, 234, 234A, 239, 240, 240A, 241, 242, 243, 245, 247, 250, 250A, 251, 252, 269, 272, 274, 275, 276, 277, 279, 283, 286, 292, 294, 295, 299, 300, 301, 302, 303, 304, 305, 307, 308, 309, 314, 318, 320, 322, 323, 349, 350, 355, 370A, 371, 374, 383A, 387, 388E, 391, 393, 394, 395, 398, 402, 404, 405, 407, 409, 416, 420, 423, 427, 445, 454, 469, 481, 485, 488, 491, 493, 495, 496, 497, 500, 501, 508, 509, 513, 514, 516, 542, 543, 547, 550, 551, 559, 560, 568, 583, 598, 606, 615, 619, 621, 621A, 627, 629A, 630, 631, 635AA, 635B, 637, 640B and 642 amended. Ss. 86, 207 and 376 substituted.	53; Ss. 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, 21, 23, 24, 25, 27, 28, 29 to 37, 40, 41 to 47, 49, 50 to 79, 81 to 90, 92, 93, 95 to 123, 125 to 128, 130 to 139, 141, 142, 144 to 158, 160, 161, 163, 165, 166, 167, 171 to 215, 217, 218, 220 to 231.
			S. 17A and 192A inserted (w.e.f. ....).	<i>Ibid.</i> , ss. 38, 94 and 169.
			Ss. 55A, 58AA, 58AAA, 60A, 60B, 68B, 117A, 117B, 117C, 292A and 605A inserted.	<i>Ibid.</i> , s. 7 and 80.
			Ss. 88, 204A, 248, 249, 261, 298, 324, 324A, 325, 325A, 326 to 348, 351 to 354, 356 to 369, 375, 377 to 383 and 618 omitted.	<i>Ibid.</i> , ss. 16, 19, 22, 26 and 43, 140 and 216. <i>Ibid.</i> , ss. 39, 91, 124, 129, 143, 159, 162, 164, 168, 170 and 219.

1	2	3	4	5
1956	25	All India Institute of Medical Sciences Act, 1956	S. 6 amended.	33, s. 2.
1956	37	States Reorganisation Act, 1956.	S. 15 amended.	28, s. 77.
1956	74	Central Sales Tax Act, 1956	s. 9 amended.	10, s. 119.
1957	27	Wealth-tax Act, 1957	Ss. 23, 31, 34A and 35 amended (w.e.f. 1-6-2000).	10, ss. 72, 73, 74, 75 and 76.
1957	58	Additional Duties of excise (Goods of Special Importance) Act, 1957	Fifth Schedule amended.	10, s. 114.
1959	10	Parliament (Prevention of Disqualification) Act, 1959	s. 3 amended.	18, s.5.
1961	43	Income-tax Act, 1961	Ss. 2, 9, 10, 11, 12, 13, 17, 24, 32, 33AC, 35, 47, 48, 49, 54EA, 54EB, 54F, 80E, 80G, 80HHB, 80HHBA, 80 HHC, 80HHD, 80HHE, 80-IB, 80-O, 80R, 80RR, 80RRA, 87, 88B, 115JA, 115JAA and 285B amended (w.e.f. 1-4-2001). Ss. 80, 1A and 88 partly amended (w.e.f. 1-4-2000). Ss. 35D, 36, 43, 43B, 50B, 72A, 80HIF, 80L and 112 amended (w.e.f. 1-4-2000). Ss. 115-O, 115P, 115R, 115-S, 139A, 158BFA, 194A, 194L, 220, 245N, 245R, 246, 246A, 249, 254, 267 and 275 amended (w.e.f. 1-6-2000). Ss. 10A and 10B substituted (w.e.f. 1-4-2001). Ss. 25B, 54EC, 88C, 115JB, Chapter XII-F inserted (w.e.f. 1-4-2001).	10, ss. 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 21, 22, 23, 25, 26, 28, 30, 31, 32, 33, 34, 35, 36, 39, 41, 42, 43, 44, 45, 47, 50, 51 and 71. <i>Ibid.</i> , ss.38 and 46 <i>Ibid.</i> , ss.17, 18, 19, 20, 24, 29, 37, 40, and 49. <i>Ibid.</i> , ss. 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69 and 70. <i>Ibid.</i> , ss. 6 and 7. <i>Ibid.</i> , ss. 13, 27, 48, 52 and 57
1962	39	Sugarcane Control (Additional Powers) Act, 1962	Repealed	13, s. 2.
1962	52	Customs Act, 1962	Ss. 27A, 28, 28AA, 28AB, 47, 59, 114A, 127B and 142 amended, s. 28B amended (w.e.f. 20-9-1991). s. 127MA inserted	10, ss. 78, 79, 80, 81, 83, 84, 85, 86 and 88. <i>Ibid.</i> , s. 82. <i>Ibid.</i> , s. 87.
1963	38	Major Port Trusts Act, 1963	Ss. 42 and 88 amended (w.e.f. ....).	22, ss. 2 and 3.
1964	37	Food Corporations Act, 1964	S. 34 substituted (w.e.f. ....).	12, s. 2.
1968	46	Insecticides Act, 1968	Ss. 21, 22, 24, 27 and 29 amended s. 31A inserted.	23, ss. 2, 3, 4, 5 and 6. <i>Ibid.</i> , s. 7.
1968	47	Border Security Force Act, 1968	S. 121A inserted	35, s. 2.
1972	50	Indian Iron and Steel Company (Taking Over of Management) Act, 1972	Repealed.	26, s. 2.

1	2	3	4	5
1973	24	North-Eastern Hill University Act, 1973	Ss. 1, 2 and 6 substituted (w.e.f. ....).	8, s.47.
1974	35	Companies (Temporary Restrictions on Dividends) Act, 1974	Repealed.	24, s. 2.
1974	45	Interest Act, 1974	S. 4 amended (w.e.f. 1-4-2001).	10, s.77.
1975	51	Customs Tariff Act, 1975	S. 9A and First Schedule amended. S. 9AA inserted: Long title, ss. 2, 4, 6, 7, 8, 12, 14, 19, 25, 28, 29, 33, 35, 38, 44, 45, 47 and 60 amended (w.e.f. ....). Ss. 20, 26, 30, 32, 34 and 40 substituted (w.e.f. ....). Ss. 27A, 37A, 38A to 38C, and 52A inserted.	10, s. 89. <i>Ibid.</i> , s. 89. 55, ss. 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 15, 16, 19, 21, 23, 26, 27, 28 and 30. <i>Ibid.</i> , ss. 11, 13, 17, 18, 20 and 25. <i>Ibid.</i> , ss. 14, 22, 24 and 29.
1981	61	National Bank for Agriculture and Rural Development Act, 1981	First Schedule and Second Schedule amended. Repealed (w.e.f. ....).	10, s. 113.
1986	5	Central Excise Tariff Act, 1985		56, s. 69.
1986	53	Juvenile Justice Act, 1986		
1987	53	National Housing Bank Act, 1987.	Ss. 2, 5, 6, 7, 14, 15, 18, 19 to 25, 31, 33, 40, 49 and 55 amended (w.e.f. ....). Ss.4 and 52 substituted. Ss. 16A, 16B, 18A, 18B, 29A, 29B, 29C, 30A, 33A, 33B, 35A, 35B, 36A, 36B, Chapter VA, 43A, 45A, 47A, 54A and Third Schedule inserted (w.e.f. ....). Ss. 58 and 66 amended.	15, ss. 2, 4 to 8, 10, 12, 15, 16, 21, 25 and 28. <i>Ibid.</i> , ss. 3 and 26. <i>Ibid.</i> , ss. 9, 11, 13, 14, 17, 18, 19, 20, 22, 23, 24, 27 and 29.
1988	59	Motor Vehicles Act, 1988		27, ss. 3 and 4.
1989	39	Small Industries Development Bank of India Act, 1989	Ss. 2, 13, 15, 19, 21, 23, 25, 26, 28, 29, 30, 35, 36, 45 and 52 amended. ss. 4 to 6, 8, 9, 12 and 16 substituted. ss. 7, 10 and 11 omitted. Chapter IVA, IVB, ss. 37A and 51A inserted.	7, ss. 2, 8, 9, 11, 13 to 21, 23 and 25. <i>Ibid.</i> , ss. 3, 5, 7 and 10. <i>Ibid.</i> , ss. 4 and 6. <i>Ibid.</i> , ss. 12, 22, and 24.
1992	34	Rehabilitation Council of India Act, 1992	Long title, ss. 2, 3, 13, 19 and 22 amended.	38, ss. 2, 3, 4, 5, 6 and 7.
1993	28	Multimodal Transportation of Goods Act, 1993	Ss. 2, 4, 6, 7, 9, 13, 14 and 15 amended. S. 20A inserted.	44, ss. 2, 3, 4, 5, 6, 7, 8 and 9. <i>Ibid.</i> , s. 10.
1993	51	Recovery of Debts Due to Banks and Financial Institutions Act, 1993	Ss. 2, 7, 8, 13, 15, 27, 28, 31, 34 and 36 amended (w.e.f. 17-1-2000). Designation, ss. 19, 30 and 32 substituted (w.e.f. 17-1-2000). Ss. 17A and 31A inserted (w.e.f. 17-1-2000).	1, ss. 3, 4, 5, 6, 7, 10, 11, 13, 16 and 17. <i>Ibid.</i> , ss. 2, 9, 12 and 15. <i>Ibid.</i> , ss. 8 and 14.
1994	10	Protection of Human Rights Act, 1993	S. 40A inserted.	49, s. 2
1994	32	Finance Act, 1994	Ss. 65, 66, 67 of Chapter V amended.	10, s. 116.

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1	2	3	4	5
1994	45	Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994	Schedule amended.	50, s. 2.
1995	7	Cable Television Networks (Regulation) Act, 1995	Ss. 2, 5, 6, 11, 18, 19 and 20 amended. S. 8 Substituted. Long title, ss. 2, 3, 5, 7, 10, 11, 13, 23, 35, 36 amended (w.e.f. 24-1-2000).	36, ss. 2, 3, 4, 6, 7, 8 and 9. <i>Ibid.</i> , s. 5.
1997	24	Telecom Regulatory Authority of India Act, 1997	S. 4 and Chapter IV substituted (w.e.f. 24-1-2000). Ss. 88 and 90 amended (w.e.f. 1.9.1998).	2, ss. 2, 3, 4, 6, 7, 8, 9, 10, 12, 13 and 14. <i>Ibid.</i> , ss. 5 and 11.
1998	21	Finance, (No. 2) Act, 1998	S. 1 amended.	10, s. 121.
1999	5	Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998.	Ss. 2 and 3 substituted.	<i>Ibid.</i> , ss. 3 and 4.
1999	27	Finance Act, 1999	First Schedule Amended (w.e.f. 1-4-1999).	10, s. 122.
2000	20	Direct-tax Laws (Miscellaneous) Repeal Act, 2000	Certain enactments in the Schedule repealed.	20, s. 2.
2000	28	Madhya Pradesh Reorganisation Act, 2000	First Schedule to the Constitution, Fourth Schedule to the Constitution, Schedule Castes Order, 1950 and Scheduled Tribes Order, 1950 amended. S. 52 substituted. S. 217A inserted.	28, ss. 5, 7, 19, and 20. <i>Ibid.</i> , s. 2. <i>Ibid.</i> , s. 5.
2000	29	Uttar Pradesh Reorganisation Act, 2000	First Schedule to the Constitution, Fourth Schedule to the Constitution, Delimitation of Council Constituencies, Schedule Castes Order, 1950 and Scheduled Tribes Order, 1950 amended.	29, ss. 5, 7, 19, 24 and 25.
2000	30	Bihar Reorganisation Act, 2000	First Schedule to the Constitution, Fourth Schedule to the Constitution, Schedule Castes Order, 1950 and Scheduled Tribes Order, 1950 amended.	30, ss. 5, 7, 23 and 24.

**PART II.—CENTRAL ORDINANCES REPEALED OR AMENDED**

Year of Ordi- nance	No. of Ordi- nance	Short title of Ordinance	No. and section of 2000 Act by which repealed
1	2	3	4
2000	1	Recovery of Debts Due to Banks and Financial Institutions (Amendment) Ordinance, 2000.	1, s. 18 (w.e.f. 17-1-2000).
2000	2	Telecom Regulatory Authority of India (Amendment) Ordinance 2000.	2, s. 15 (w.e.f. 24-1-2000).
2000	4	National Bank for Agriculture and Rural Development (Amendment) Ordinance, 2000.	55, s. 31 (w.e.f.....).
2000	5	Central Road Fund Ordinance, 2000.	54, s. 15 (w.e.f. 1-11-2000).

**PART III.—CONSTITUTION OF INDIA AMENDED**

How affected	No. and section of 2000 Act by which affected
Article 269 amended	Constitution (Eightieth Amendment) Act, 2000, s. 2.
Article 270 substituted (w.e.f. 1-4-1996)	<i>Ibid.</i> , s. 3.
Article 272 omitted (w.e.f. 1-4-1996)	<i>Ibid.</i> , s. 4.
Article 16 amended	Constitution (Eighty-first Amendment) Act, 2000, s. 2.
Article 335 amended	Constitution (Eighty-second Amendment) Act, 2000, s. 2.
Article 243M amended	Constitution (Eighty-third Amendment) Act, 2000, s. 2.

**THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL  
INSTITUTIONS (AMENDMENT) ACT, 2000**

No. 1 OF 2000

[25th March, 2000.]

An Act further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

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

1. (1) This Act may be called the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 2000.

Short title and  
commencement.

(2) It shall be deemed to have come into force on the 17th day of January, 2000.

Substitution of  
designation.

2. In the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the principal Act), for the words "the Presiding Officer of the Appellate Tribunal", "the Presiding Officer of an Appellate Tribunal", "the Presiding Officer of a Tribunal or an Appellate Tribunal", wherever they occur, the words "the Chairperson of the Appellate Tribunal", "the Chairperson of an Appellate Tribunal", "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall respectively be substituted.

Amendment of  
section 2.

**3. In section 2 of the principal Act,—**

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

'(ea) "Chairperson" means a Chairperson of an Appellate Tribunal appointed under section 9;';

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

'(g) "debt" means any liability (inclusive of interest) which is claimed as due from any person by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on, the date of the application;';

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

'(ja) "Presiding Officer" means the Presiding Officer of the Debts Recovery Tribunal appointed under sub-section (1) of section 4;'.

Amendment of  
section 7.

**4. In section 7 of the principal Act,—**

(a) in sub-section (1), for the words "with a Recovery Officer", the words "with one or more Recovery Officers" shall be substituted;

(b) in sub-section (2), for the words "The Recovery Officer", the words "The Recovery Officers" shall be substituted;

(c) in sub-section (3), for the words "Recovery Officer", the words "Recovery Officers" shall be substituted.

Amendment of  
section 8.

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

"(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may authorise the Chairperson of one Appellate Tribunal to discharge also the functions of the Chairperson of other Appellate Tribunal.".

Amendment of  
section 13.

**6. In section 13 of the principal Act, in the proviso, for the words "the said Presiding Officers shall be varied to their", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal shall be varied to his" shall be substituted.**

Amendment of  
section 15.

**7. In section 15 of the principal Act,—**

(a) in sub-section (1), in the proviso, for the words "the said Presiding Officer", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall be substituted;

(b) in sub-section (2), for the words "the Presiding Officer concerned", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall be substituted;

(c) in sub-section (3), for the words "the aforesaid Presiding Officer", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall be substituted.

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

"17A. (1) The Chairperson of an Appellate Tribunal shall exercise general power of superintendence and control over the Tribunals under his jurisdiction including the power of appraising the work and recording the annual confidential reports of Presiding Officers.

(2) The Chairperson of an Appellate Tribunal having jurisdiction over the Tribunals may, on the application of any of the parties or on his own motion after notice to the parties, and after hearing them, transfer any case from one Tribunal for disposal to any other Tribunal.".

9. For section 19 of the principal Act, the following section shall be substituted, namely:—

"19. (1) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—

- (a) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or
- (b) any of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or
- (c) the cause of action, wholly or in part, arises.

(2) Where a bank or a financial institution, which has to recover its debt from any person, has filed an application to the Tribunal under sub-section (1) and against the same person another bank or financial institution also has a claim to recover its debt, then, the later bank or financial institution may join the applicant bank or financial institution at any stage of the proceedings, before the final order is passed, by making an application to that Tribunal.

(3) Every application under sub-section (1) or sub-section (2) shall be in such form and accompanied by such documents or other evidence and by such fee as may be prescribed:

Provided that the fee may be prescribed having regard to the amount of debt to be recovered:

Provided further that nothing contained in this sub-section relating to fee shall apply to cases transferred to the Tribunal under sub-section (1) of section 31.

(4) On receipt of the application under sub-section (1) or sub-section (2), the Tribunal shall issue summons requiring the defendant to show cause within thirty days of the service of summons as to why the relief prayed for should not be granted.

(5) The defendant shall, at or before the first hearing or within such time as the Tribunal may permit, present a written statement of his defence.

(6) Where the defendant claims to set-off against the applicant's demand any ascertained sum of money legally recoverable by him from such applicant, the defendant may, at the first hearing of the application, but not afterwards unless permitted by the Tribunal, present a written statement containing the particulars of the debt sought to be set-off.

(7) The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Tribunal to pass a final order in respect both of the original claim and of the set-off.

Insertion of new section 17A.

Power of Chairperson of Appellate Tribunal.

Substitution of new section for section 19.

Application to the Tribunal.

(8) A defendant in an application may, in addition to his right of pleading a set-off under sub-section (6), set up, by way of counter-claim against the claim of the applicant, any right or claim in respect of a cause of action accruing to the defendant against the applicant either before or after the filing of the application but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not.

(9) A counter-claim under sub-section (8) shall have the same effect as a cross-suit so as to enable the Tribunal to pass a final order on the same application, both on the original claim and on the counter-claim.

(10) The applicant shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the Tribunal.

(11) Where a defendant sets up a counter-claim and the applicant contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent action, the applicant may, at any time before issues are settled in relation to the counter-claim, apply to the Tribunal for an order that such counter-claim may be excluded, and the Tribunal may, on the hearing of such application make such order as it thinks fit.

(12) The Tribunal may make an interim order (whether by way of injunction or stay or attachment) against the defendant to debar him from transferring, alienating or otherwise dealing with, or disposing of, any property and assets belonging to him without the prior permission of the Tribunal.

(13) (A) Where, at any stage of the proceedings, the Tribunal is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay or frustrate the execution of any order for the recovery of debt that may be passed against him,—

(i) is about to dispose of the whole or any part of his property; or

(ii) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Tribunal; or

(iii) is likely to cause any damage or mischief to the property or affect its value by misuse or creating third party interest,

the Tribunal may direct the defendant, 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 certificate for the recovery of debt, or to appear and show cause why he should not furnish security.

(B) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Tribunal, the Tribunal may order the attachment of the whole or such portion of the properties claimed by the applicant as the properties secured in his favour or otherwise owned by the defendant as appears sufficient to satisfy any certificate for the recovery of debt.

(14) The applicant shall, unless the Tribunal otherwise directs, specify the property required to be attached and the estimated value thereof.

(15) The Tribunal may also in the order direct the conditional attachment of the whole or any portion of the property specified under sub-section (14).

(16) If an order of attachment is made without complying with the provisions of sub-section (13), such attachment shall be void.

(17) In the case of disobedience of an order made by the Tribunal under sub-sections (12), (13) and (18) or breach of any of the terms on which the order was made, the Tribunal may order the properties of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Tribunal directs his release.

(18) Where it appears to the Tribunal to be just and convenient, the Tribunal may, by order,—

(a) appoint a receiver of any property, whether before or after grant of certificate for recovery of debt;

(b) remove any person from the possession or custody of the property;

(c) commit the same to the possession, custody or management of the receiver;

(d) confer upon the receiver all such powers, as to bringing and defending suits in the courts or filing and defending applications before the Tribunal and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Tribunal thinks fit; and

(e) appoint a Commissioner for preparation of an inventory of the properties of the defendant or for the sale thereof.

(19) Where a certificate of recovery is issued against a company registered under the Companies Act, 1956, the Tribunal may order the sale proceeds of such company to be distributed among its secured creditors in accordance with the provisions of section 529A of the Companies Act, 1956 and to pay the surplus, if any, to the company.

(20) The Tribunal may, after giving the applicant and the defendant an opportunity of being heard, pass such interim or final order, including the order for payment of interest from the date on or before which payment of the amount is found due up to the date of realisation or actual payment, on the application as it thinks fit to meet the ends of justice.

(21) The Tribunal shall send a copy of every order passed by it to the applicant and the defendant.

(22) The Presiding Officer shall issue a certificate under his signature on the basis of the order of the Tribunal to the Recovery Officer for recovery of the amount of debt specified in the certificate.

(23) Where the Tribunal, which has issued a certificate of recovery, is satisfied that the property is situated within the local limits of the jurisdiction of two or more Tribunals, it may send the copies of the certificate of recovery for execution to such other Tribunals where the property is situated:

Provided that in a case where the Tribunal to which the certificate of recovery is sent for execution finds that it has no jurisdiction to comply with the certificate of recovery, it shall return the same to the Tribunal which has issued it.

(24) The application made to the Tribunal under sub-section (1) or sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application finally within one hundred and eighty days from the date of receipt of the application.

(25) The Tribunal may make such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."

Amendment of section 27.

**10.** In section 27 of the principal Act, in sub-section (4), after the words "is reduced", the words "or enhanced" shall be inserted.

Amendment of section 28.

**11.** In section 28 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The Recovery Officer may, by order, at any stage of the execution of the certificate of recovery, require any person, and in case of a company, any of its officers against whom or which the certificate of recovery is issued, to declare on affidavit the particulars of his or its assets.".

Substitution of new section for section 30.

**12.** For section 30 of the principal Act, the following section shall be substituted, namely:—

"30. (1) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal.

(2) On receipt of an appeal under sub-section (1), the Tribunal may, after giving an opportunity to the appellant to be heard, and after making such enquiry as it deems fit, confirm, modify or set aside the order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive).".

Amendment of section 31.

**13.** In section 31 of the principal Act, in sub-section (2), in clause (b), the words "or *de novo*" shall be omitted.

Insertion of new section 31A.

**14.** After section 31 of the principal Act, the following section shall be inserted, namely:—

"31A. (1) Where a decree or order was passed by any court before the commencement of the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 2000 and has not yet been executed, then, the decree-holder may apply to the Tribunal to pass an order for recovery of the amount.

(2) On receipt of an application under sub-section (1), the Tribunal may issue a certificate for recovery to a Recovery Officer.

(3) On receipt of a certificate under sub-section (2), the Recovery Officer shall proceed to recover the amount as if it was a certificate in respect of a debt recoverable under this Act.".

Substitution of new section for section 32.

**15.** For section 32 of the principal Act, the following section shall be substituted, namely:—

"32. The Chairperson of an Appellate Tribunal, the Presiding Officer of a Tribunal, the Recovery Officer and other officers and employees of an Appellate Tribunal and a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.".

45 of 1860.

Amendment of section 34.

**16.** In section 34 of the principal Act, in sub-section (2), for the words, brackets and figures "and the Sick Industrial Companies (Special Provisions) Act, 1985", the words, brackets and figures "the Sick Industrial Companies (Special Provisions) Act, 1985 and the Small Industries Development Bank of India Act, 1989" shall be substituted.

1 of 1986.

Amendment of section 36.

**17.** In section 36 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a), for the words "the Presiding Officers", the words "the Chairpersons, the Presiding Officers" shall be substituted;

39 of 1989.

(ii) in clause (b), for the words "the Presiding Officers of the Tribunals and Appellate Tribunals", the words "the Chairpersons of Appellate Tribunals and the Presiding Officers of the Tribunals" shall be substituted;

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

"(3) Every notification issued under sub-section (4) of section 1, section 3 and section 8 and 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 notification or rule or both Houses agree that the notification or rule should not be issued or made, the notification or 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 notification or rule."

**18. (1) The Recovery of Debts Due to Banks and Financial Institutions (Amendment)**

Ord. 1 of 2000. Ordinance, 2000, 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.

**THE TELECOM REGULATORY AUTHORITY OF INDIA  
(AMENDMENT) ACT, 2000**

**No. 2 OF 2000**

**[25th March, 2000.]**

**An ACT to amend the Telecom Regulatory Authority of India Act, 1997.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**Short title and commencement**      **1. (1)** This Act may be called the Telecom Regulatory Authority of India (Amendment) Act, 2000.

**(2)** It shall be deemed to have come into force on the 24th day of January, 2000.

**Amendment of long title.**      **2.** In the Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as the principal Act), in the long title, for the words “Telecom Regulatory Authority of India to regulate the telecommunication services,”, the words “Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector” shall be substituted.

**24 of 1997.**

Amendment of  
section 2.

**3. In section 2 of the principal Act,—**

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

‘(aa) “Appellate Tribunal” means the Telecom Disputes Settlement and Appellate Tribunal established under section 14;’;

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

‘(ea) “licensor” means the Central Government or the telegraph authority who grants a licence under section 4 of the Indian Telegraph Act, 1885;’;

(c) in clause (j), for the word “Government”, the words “Government as a service provider” shall be substituted;

(d) in clause (k), the following proviso shall be inserted, namely:—

“Provided that the Central Government may notify other service to be telecommunication service including broadcasting services.”

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

“(3) The Authority shall consist of a Chairperson, and not more than two whole-time members and not more than two part-time members, to be appointed by the Central Government.”.

**5. For section 4 of the principal Act, the following section shall be substituted, namely:—**

“4. The Chairperson and other members of the Authority shall be appointed by the Central Government from amongst persons who have special knowledge of, and professional experience in, telecommunication, industry, finance, accountancy, law, management or consumer affairs:

Provided that a person who is, or has been, in the service of Government shall not be appointed as a member unless such person has held the post of Secretary or Additional Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than three years.”.

**6. In section 5 of the principal Act,—**

(a) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) The Chairperson and other members shall hold office for a term not exceeding three years, as the Central Government may notify in this behalf, from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier.

(3) On the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, a person appointed as Chairperson of the Authority and every other person appointed as member and holding office as such immediately before such commencement shall vacate their respective offices and such Chairperson and such other members shall be entitled to claim compensation not exceeding three months pay and allowances for the premature termination of the term of their offices or of any contract of service.”;

(b) in sub-section (4),—

(i) for the words “selection as member”, the words “selection as the Chairperson or whole-time member” shall be substituted;

(ii) for the words “joining as member”, the words “joining as the Chairperson or a whole-time member, as the case may be” shall be substituted;

(c) in sub-section (5), for the words “other members”, the words “whole-time members” shall be substituted;

Amendment of  
section 3.

Substitution of  
new section for  
section 4.

Qualifications  
for appointment  
of Chairperson  
and other  
members.

Amendment of  
section 5.

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

“(6A) The part-time members shall receive such allowances as may be prescribed.”;

(e) in sub-section (7), the words, brackets and figure “or sub-section (3)” shall be omitted;

(f) in sub-section (8),—

(i) in the opening portion, for the words “other member”, the words “whole-time member” shall be substituted;

(ii) in clause (b), for the words “two years”, the words “one year” shall be substituted;

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

“Provided that nothing contained in this sub-section shall apply to the Chairperson or a member who has ceased to hold office under sub-section (3) and such Chairperson or member shall be eligible for re-appointment in the Authority or appointment in the Appellate Tribunal.”.

**Amendment of section 7.** 7. In section 7 of the principal Act, for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

“(2) No such member shall be removed from his office under clause (a) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.”.

**Amendment of section 10.**

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

(a) for the words “determined by regulations”, the word “prescribed” shall be substituted;

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

“Provided that any regulation, in respect of the salary and allowances payable to and other conditions of service of the officers and other employees of the Authority, made before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall cease to have effect immediately on the notification of rules made under clause (ca) of sub-section (2) of section 35.”.

**Amendment of section 11.**

9. In section 11 of the principal Act,—

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

“(1) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the functions of the Authority shall be to—

(a) make recommendations, either *suo motu* or on a request from the licensor, on the following matters, namely:—

(i) need and timing for introduction of new service provider;  
(ii) terms and conditions of licence to a service provider;  
(iii) revocation of licence for non-compliance of terms and conditions of licence;

(iv) measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

(v) technological improvements in the services provided by the service providers;

(vi) type of equipment to be used by the service providers after inspection of equipment used in the network;

(vii) measures for the development of telecommunication technology and any other matter relatable to telecommunication industry in general;

(viii) efficient management of available spectrum;

(b) discharge the following functions, namely:—

(i) ensure compliance of terms and conditions of licence;

(ii) notwithstanding anything contained in the terms and conditions of the licence granted before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, fix the terms and conditions of inter-connectivity between the service providers;

(iii) ensure technical compatibility and effective inter-connection between different service providers;

(iv) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

(v) lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

(vi) lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

(vii) maintain register of inter-connect agreements and of all such other matters as may be provided in the regulations;

(viii) keep register maintained under clause (vii) open for inspection to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations;

(ix) ensure effective compliance of universal service obligations;

(c) levy fees and other charges at such rates and in respect of such services as may be determined by regulations;

(d) perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act:

Provided that the recommendations of the Authority specified in clause (a) of this sub-section shall not be binding upon the Central Government:

Provided further that the Central Government shall seek the recommendations of the Authority in respect of matters specified in sub-clauses (i) and (ii) of clause (a) of this sub-section in respect of new licence to be issued to a service provider and the Authority shall forward its recommendations within a period of sixty days from the date on which that Government sought the recommendations:

Provided also that the Authority may request the Central Government to furnish such information or documents as may be necessary for the purpose of making recommendations under sub-clauses (i) and (ii) of clause (a) of this sub-section and that Government shall supply such information within a period of seven days from receipt of such request:

Provided also that the Central Government may issue a licence to a service provider if no recommendations are received from the Authority within the period specified in the second proviso or within such period as may be mutually agreed upon between the Central Government and the Authority:

Provided also that if the Central Government, having considered that recommendation of the Authority, comes to a *prima facie* conclusion that such recommendation cannot be accepted or needs modifications, it shall refer the recommendation back to the Authority for its reconsideration, and the Authority may, within fifteen days from the date of receipt of such reference, forward to the Central Government its recommendation after considering the reference made by that Government. After receipt of further recommendation if any, the Central Government shall take a final decision.”;

(b) in sub-section (3), for the words, brackets and figure “under sub-section (1)”, the words, brackets and figures “under sub-section (1) or sub-section (2)” shall be substituted.

**Amendment of section 13.**

10. In section 13 of the principal Act, the following proviso shall be inserted, namely:—

“Provided that no direction under sub-section (4) of section 12 or under this section shall be issued except on the matters specified in clause (b) of sub-section (1) of section 11.”.

**Substitution of new Chapter for Chapter IV.**

namely:—

11. For Chapter IV of the principal Act, the following Chapter shall be substituted,

#### ‘CHAPTER IV

##### APPELLATE TRIBUNAL

14. The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—

(a) adjudicate any dispute—

(i) between a licensor and a licensee;

(ii) between two or more service providers;

(iii) between a service provider and a group of consumers:

Provided that nothing in this clause shall apply in respect of matters relating to—

(A) the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

(B) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986;

(C) the dispute between telegraph authority and any other person referred to in sub-section (1) of section 7B of the Indian Telegraph Act, 1885;

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

54 of 1969.

68 of 1986.

13 of 1885.

**Application for settlement of disputes and appeals to Appellate Tribunal.**

14A. (1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute referred to in clause (a) of section 14.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any 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.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any dispute made in any application under sub-section (1) or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

14B. (1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification, by the Central Government.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act,—

(a) the jurisdiction of the Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;

(d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

**Qualifications for appointment of Chairperson and Members.**

14C. A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;

(b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than two years or a person who is well versed in the field of technology, telecommunication, industry, commerce or administration.

**Term of office.**

14D. The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-five years.

**Terms and conditions of service.**

14E. The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

**Vacancies.**

14F. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

**Removal and resignation.**

14G. (1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d).or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought on such ground or grounds to be removed.

(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

14H. (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

Staff of Appellate Tribunal.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Appellate Tribunal shall be such as may be prescribed.

14-I. Where Benches are constituted, the Chairperson of the Appellate Tribunal may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

Distribution of business amongst Benches.

14J. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson of the Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

Power of Chairperson to transfer cases.

14K. If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority who have heard the case, including those who first heard it.

Decision to be by majority.

14L. The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, etc., to be public servants.

14M. All applications, pending for adjudication of disputes before the Authority immediately before the date of establishment of the Appellate Tribunal under this Act, shall stand transferred on that date to such Tribunal:

Transfer of pending cases.

Provided that all disputes being adjudicated under the provisions of Chapter IV as it stood immediately before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall continue to be adjudicated by the Authority in accordance with the provisions contained in that Chapter, till the establishment of the Appellate Tribunal under this Act:

Provided further that all cases referred to in the first proviso shall be transferred by the Authority to the Appellate Tribunal immediately on its establishment under section 14.

14N. (1) All appeals pending before the High Court immediately before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall stand transferred to the Appellate Tribunal on its establishment under section 14.

Transfer of appeals.

(2) Where any appeal stands transferred from the High Court to the Appellate Tribunal under sub-section (1),—

(a) the High Court shall, as soon as may be after such transfer, forward the records of such appeal to the Appellate Tribunal; and

(b) the Appellate Tribunal may, on receipt of such records, proceed to deal with such appeal, so far as may be from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Appellate Tribunal may deem fit.

15. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Civil court not to have jurisdiction.

Procedure and powers of Appellate Tribunal.

16. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

5 of 1908.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document, from any office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) reviewing its decisions;
- (g) dismissing an application for default or deciding it, *ex parte*;
- (h) setting aside any order of dismissal of any application for default or any order passed by it, *ex parte*; and
- (i) any other matter which may be prescribed.

1 of 1872.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the 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.

45 of 1860.

2 of 1974.

Right to legal representation.

17. The applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

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

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

38 of 1949.

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

56 of 1980.

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

23 of 1959.

(d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.

Appeal to Supreme Court.

18. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

5 of 1908.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

19. (1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

20. If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.'

12. In section 23 of the principal Act, after sub-section (2), the following *Explanation* shall be inserted, namely:—

*"Explanation.*—For the removal of doubts, it is hereby declared that the decisions of the Authority taken in the discharge of its functions under clause (b) of sub-section (1) and sub-section (2) of section 11 and section 13, being matters appealable to the Appellate Tribunal, shall not be subject to audit under this section."

13. In section 35 of the principal Act, in sub-section (2),—

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

"(aa) the allowances payable to the part-time members under sub-section (6A) of section 5;"

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

"(ca) the salary and allowances and other conditions of service of officers and other employees of the Authority under sub-section (2) of section 10;"

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

"(da) the form, the manner of its verification and the fee under sub-section (3) of section 14A;

"(db) the salary and allowances payable to and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under section 14E;

"(dc) the salary and allowances and other conditions of service of the officers and employees of the Appellate Tribunal under sub-section (3) of section 14H;

"(dd) any other power of a civil court required to be prescribed under clause (i) of sub-section (2) of section 16;"

14. In section 36 of the principal Act, in sub-section (2),—

(a) clause (c) shall be omitted;

(b) in clause (d), for the words, brackets and letter "under clause (i)", the words, brackets, figures and letter "under sub-clause (vii) of clause (b)" shall be substituted;

Orders passed by Appellate Tribunal to be executable as a decree.

Penalty for wilful failure to comply with orders of Appellate Tribunal.

Amendment of section 23.

Amendment of section 35.

Amendment of section 36.

(c) in clause (e), for the words, brackets and letter "under clause (m)", the words, brackets, figures and letter "under sub-clause (viii) of clause (b)" shall be substituted;

(d) in clause (f), for the words, brackets and letter "under clause (p)", the words, brackets and letter "under clause (c)" shall be substituted.

Repeal and saving.

**15. (1)** The Telecom Regulatory Authority of India (Amendment) Ordinance, 2000, is hereby repealed. Ord. 2 of 2000.

(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 corresponding provisions of the principal Act, as amended by this Act.

**THE APPROPRIATION (RAILWAYS) VOTE ON ACCOUNT  
ACT, 2000**

**No. 3 OF 2000**

**[27th March, 2000.]**

**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 2000-2001 for the purposes of Railways.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

- 1. This Act may be called the Appropriation (Railways) Vote on Account Act, 2000.** Short title.
- 2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eleven thousand one hundred and nine crores, fifty-five lakhs and eighty-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2000-2001, in respect of the services relating to Railways specified in column 2 of the Schedule.** Issue of Rs. 11109,55,81,000 out of the Consolidated Fund of India for the financial year 2000-2001.
- 3. The sums authorised to be withdrawn from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.** Appropriation.

**THE SCHEDULE**  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board .....	10,14,67,000	..	10,14,67,000
2	Miscellaneous Expenditure (General) .....	30,38,67,000	..	30,38,67,000
3	General Superintendence and Services on Railways .....	242,21,49,000	34,000	242,21,83,000
4	Repairs and Maintenance of Permanent Way and Works .....	483,91,64,000	97,000	483,92,61,000
5	Repairs and Maintenance of Motive Power .....	274,35,61,000	12,000	274,35,73,000
6	Repairs and Maintenance of Carriages and Wagons .....	523,92,02,000	17,000	523,92,19,000
7	Repairs and Maintenance of Plant and Equipment.....	262,17,81,000	..	262,17,81,000
8	Operating Expenses— Rolling Stock and Equipment .....	444,96,58,000	1,17,000	444,97,75,000
9	Operating Expenses—Traffic .....	1940,02,24,000	50,000	1940,02,74,000
10	Operating Expenses—Fuel .....	1071,66,71,000	33,000	1071,67,04,000
11	Staff Welfare and Amenities .....	195,20,50,000	47,000	195,20,97,000
12	Miscellaneous Working Expenses .....	239,58,09,000	3,16,64,000	242,74,73,000
13	Provident Fund, Pension and other Retirement Benefits .....	888,72,23,000	13,90,000	888,86,13,000
14	Appropriation to Funds .....	1437,21,20,000	..	1437,21,20,000
15	Dividend to General Revenues, Repayment of Loans taken from General Revenues and Amortization of Over-Capitalisation .....	4,32,19,000	..	4,32,19,000
16	Assets—Acquisition, Con- struction and Replacement— Revenue .....	6,33,33,000	..	6,33,33,000
	<i>Other Expenditure</i>			
	Capital .....	2238,56,22,000	83,33,000	2239,39,55,000
	Railway Funds .....	811,50,00,000	16,67,000	811,66,67,000
	<b>TOTAL .....</b>	<b>11105,21,20,000</b>	<b>4,34,61,000</b>	<b>11109,55,81,000</b>

## THE APPROPRIATION (RAILWAYS) ACT, 2000

No. 4 OF 2000

[27th March, 2000.]

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 1999-2000 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Act, 2000.

Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand two hundred and fifty-seven crores, thirty-four lakhs and ten thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1999-2000, in respect of the services relating to Railways specified in column 2 of the Schedule.

Issue of Rs.  
1257,34,10,000  
out of the  
Consolidated  
Fund of India  
for the  
financial year  
1999-2000.

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

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	General Superintendence and Services on Railways .....	..	2,73,000	2,73,000
4	Repairs and Maintenance of Permanent Way and Works .....	..	13,62,000	13,62,000
6	Repairs and Maintenance of Carriages and Wagons .....	..	13,000	13,000
8	Operating Expenses—Rolling Stock and Equipment .....	..	1,04,000	1,04,000
9	Operating Expenses—Traffic .....	..	7,00,000	7,00,000
10	Operating Expenses—Fuel .....	451,84,68,000	83,000	451,85,51,000
11	Staff Welfare and Amenities .....	..	43,88,000	43,88,000
12	Miscellaneous Working Expenses .....	..	4,93,92,000	4,93,92,000
13	Provident Fund, Pension and other Retirement Benefits.....	796,26,39,000	33,72,000	796,60,11,000
16	Assets—Acquisition, Construction and Replacement—			
	<i>Other Expenditure</i>			
	Capital .....	1,000	3,26,12,000	3,26,13,000
	Railway Funds .....	3,000	..	3,000
		TOTAL	1248,11,11,000	9,22,99,000
				1257,34,10,000

## THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 2000

No. 5 OF 2000

[27th March, 2000.]

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 2000-2001.

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

1. This Act may be called the Appropriation (Vote on Account) Act, 2000.

Short title.

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one lakh thirty-five thousand one hundred and forty-four crores and eleven lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2000-2001.

Withdrawal of  
Rs. 135144,  
11,00,000  
from and out  
of the  
Consolidated  
Fund of India  
for the  
financial year  
2000-2001.

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

Appropriation.

4. References to the Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 20th February, 2000 and shall on or after that date be construed as references to the appropriate Ministries or Departments as constituted from time to time.

Construction  
of references  
to Ministries  
and  
Departments  
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 Cooperation .....	Revenue 994,39,00,000	..	994,39,00,000
	Capital 22,56,00,000	9,05,00,000	..	31,61,00,000
2	Department of Agricultural Research and Education .....	Revenue 234,09,00,000	..	234,09,00,000
3	Department of Animal Husbandry and Dairying .....	Revenue 66,18,00,000	..	66,18,00,000
	Capital 2,40,00,000	..	..	2,40,00,000
4	Department of Food Processing Industries .....	Revenue 5,97,00,000	..	5,97,00,000
	Capital 2,87,00,000	..	..	2,87,00,000
5	Department of Chemicals and Petro-chemicals .....	Revenue 24,16,00,000	..	24,16,00,000
	Capital 33,89,00,000	..	..	33,89,00,000
6	Department of Fertilizers .....	Revenue 1565,89,00,000	1,00,000	1565,90,00,000
	Capital 74,75,00,000	..	..	74,75,00,000
7	Ministry of Civil Aviation .....	Revenue 122,80,00,000	..	122,80,00,000
	Capital 7,54,00,000	..	..	7,54,00,000
8	Department of Commerce .....	Revenue 185,12,00,000	..	185,12,00,000
	Capital 13,96,00,000	..	..	13,96,00,000
9	Department of Industrial Development and Industrial Policy and Promotion .....	Revenue 91,28,00,000	1,33,00,000	92,61,00,000
10	Department of Supply .....	Revenue 16,01,00,000	5,00,000	16,06,00,000
11	Department of Posts .....	Revenue 875,74,00,000	1,00,000	875,75,00,000
	Capital 14,84,00,000	..	..	14,84,00,000
12	Department of Telecommunication .....	Revenue 11,75,00,000	..	11,75,00,000
13	Department of Telecom Services .....	Revenue 3577,34,00,000	1,00,000	3577,35,00,000
	Capital 2669,00,00,000	1,00,000	..	2669,01,00,000
14	Department of Culture .....	Revenue 70,38,00,000	..	70,38,00,000
15	Department of Youth Affairs and Sports .....	Revenue 43,02,00,000	..	43,02,00,000
	Capital 31,00,000	..	..	31,00,000
16	Ministry of Defence .....	Revenue 618,05,00,000	4,00,000	618,09,00,000
	Capital 6,26,00,000	..	..	6,26,00,000
17	Defence Pensions .....	Revenue 1999,94,00,000	6,00,000	2000,00,00,000
18	Defence Services—Army .....	Revenue 4923,90,00,000	1,45,00,000	4925,35,00,000
19	Defence Services—Navy .....	Revenue 682,51,00,000	33,00,000	682,84,00,000
20	Defence Services—Air Force .....	Revenue 1353,46,00,000	25,00,000	1353,71,00,000
21	Defence Ordnance Factories .....	Revenue 580,20,00,000	3,00,000	580,23,00,000
22	Capital Outlay on Defence Services .....	Capital 2985,49,00,000	2,24,00,000	2987,73,00,000
23	Department of Disinvestment .....	Revenue 69,00,000	..	69,00,000
24	Ministry of Environment and Forests .....	Revenue 144,83,00,000	..	144,83,00,000
	Capital 2,66,00,000	..	..	2,66,00,000
25	Ministry of External Affairs .....	Revenue 409,75,00,000	1,00,000	409,76,00,000
	Capital 67,50,00,000	..	..	67,50,00,000
26	Department of Economic Affairs .....	Revenue 213,46,00,000	..	213,46,00,000
	Capital 60,67,00,000	..	..	60,67,00,000
27	Currency, Coinage and Stamps .....	Revenue 175,20,00,000	26,00,000	175,46,00,000
	Capital 124,82,00,000	1,00,000	..	124,83,00,000
28	Payments to Financial Institutions .....	Revenue 98,56,00,000	..	98,56,00,000
	Capital 173,78,00,000	..	..	173,78,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
	CHARGED.— <i>Interest Payments</i>	Revenue	Rs.	Rs.
30	Transfers to State and Union Territory Governments .....	Revenue	2357,37,00,000	17607,05,00,000
		Capital	..	10200,20,00,000
31	Loans to Government Servants, etc.	Capital	133,33,00,000	3478,03,00,000
	CHARGED.— <i>Repayment of Debt</i>	Capital	..	133,33,00,000
33	Department of Expenditure .....	Revenue	3,86,00,000	59127,86,00,000
		Capital	66,00,000	..
34	Pensions .....	Revenue	644,17,00,000	644,17,00,000
35	Indian Audit and Accounts Department .....	Revenue	145,70,00,000	149,28,00,000
		Capital	2,83,00,000	..
36	Department of Revenue .....	Revenue	165,29,00,000	165,30,00,000
		Capital	1,60,00,000	..
37	Direct Taxes .....	Revenue	156,41,00,000	156,42,00,000
		Capital	18,33,00,000	..
38	Indirect Taxes .....	Revenue	198,99,00,000	199,16,00,000
		Capital	52,85,00,000	..
39	Department of Public Distribution .....	Revenue	1355,24,00,000	1355,25,00,000
		Capital	4,88,00,000	1,15,00,000
40	Department of Consumer Affairs .....	Revenue	3,64,00,000	3,64,00,000
		Capital	37,00,000	..
41	Department of Sugar and Edible Oils .....	Revenue	64,27,00,000	64,27,00,000
		Capital	37,48,00,000	..
42	Department of Health .....	Revenue	370,71,00,000	370,71,00,000
		Capital	58,30,00,000	..
43	Department of Indian Systems of Medicine and Homoeopathy .....	Revenue	23,92,00,000	23,92,00,000
		Capital	1,00,000	..
44	Department of Family Welfare .....	Revenue	728,41,00,000	728,41,00,000
45	Ministry of Home Affairs .....	Revenue	189,97,00,000	2,00,000
		Capital	3,10,00,000	..
46	Cabinet .....	Revenue	21,85,00,000	21,85,00,000
		Capital	2,32,00,000	..
47	Police .....	Revenue	1252,69,00,000	34,00,000
		Capital	96,94,00,000	19,53,00,000
48	Other Expenditure of the Ministry of Home Affairs .....	Revenue	96,91,00,000	1,00,000
		Capital	110,39,00,000	1,91,00,000
49	Transfers to Union territory Governments .....	Revenue	74,33,00,000	..
		Capital	56,33,00,000	..
50	Department of Elementary Education and Literacy .....	Revenue	955,71,00,000	..
51	Department of Secondary Education and Higher Education .....	Revenue	1189,27,00,000	1189,27,00,000
		Capital	1,00,000	..
52	Department of Women and Child Development .....	Revenue	251,97,00,000	251,97,00,000
		Capital	3,00,000	..
53	Department of Public Enterprises .....	Revenue	50,00,000	..
54	Department of Heavy Industry .....	Revenue	17,92,00,000	17,92,00,000
		Capital	225,74,00,000	..
55	Ministry of Information and Broadcasting .....	Revenue	199,62,00,000	2,00,000
		Capital	31,08,00,000	..
56	Ministry of Information Technology .....	Revenue	55,83,00,000	..
		Capital	8,20,00,000	..
57	Ministry of Labour .....	Revenue	161,42,00,000	1,00,000
		Capital	5,00,000	..

No. of Vote	Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
58	Law and Justice .....	Revenue	72,45,00,000	72,45,00,000
59	Election Commission .....	Revenue	1,78,00,000	1,78,00,000
	CHARGED.—Supreme Court of India .....	Revenue	..	4,96,00,000
61	Department of Company Affairs .....	Revenue	6,52,00,000	6,52,00,000
		Capital	48,00,000	48,00,000
62	Department of Coal .....	Revenue	76,05,00,000	76,05,00,000
		Capital	98,94,00,000	98,94,00,000
63	Department of Mines .....	Revenue	66,19,00,000	66,21,00,000
		Capital	35,67,00,000	35,67,00,000
64	Ministry of Non-Conventional Energy Sources .....	Revenue	55,49,00,000	55,49,00,000
		Capital	18,93,00,000	18,93,00,000
65	Ministry of Parliamentary Affairs .....	Revenue	80,00,000	80,00,000
66	Ministry of Personnel, Public Grievances and Pensions .....	Revenue	31,23,00,000	31,24,00,000
		Capital	48,00,000	1,50,00,000
67	Ministry of Petroleum and Natural Gas .....	Revenue	1,26,00,000	1,26,00,000
68	Ministry of Planning .....	Revenue	6,84,00,000	6,84,00,000
		Capital	1,49,00,000	1,49,00,000
69	Ministry of Power .....	Revenue	201,82,00,000	1,08,00,000
		Capital	361,55,00,000	1,67,00,000
70	Department of Rural Development .....	Revenue	3200,67,00,000	3200,67,00,000
		Capital	50,00,00,000	50,00,00,000
71	Department of Land Resources .....	Revenue	150,15,00,000	150,15,00,000
72	Department of Drinking Water Supply .....	Revenue	807,56,00,000	807,56,00,000
73	Department of Science and Technology .....	Revenue	127,30,00,000	1,00,000
		Capital	3,45,00,000	3,45,00,000
74	Department of Scientific and Industrial Research .....	Revenue	160,65,00,000	..
		Capital	92,00,000	92,00,000
75	Department of Bio-technology .....	Revenue	22,68,00,000	22,68,00,000
76	Department of Small Scale Industries and Agro and Rural Industries .....	Revenue	127,21,00,000	..
		Capital	7,32,00,000	7,32,00,000
77	Ministry of Statistics and Programme Implementation .....	Revenue	300,35,00,000	300,35,00,000
		Capital	11,16,00,000	..
78	Ministry of Steel .....	Revenue	7,71,00,000	7,71,00,000
		Capital	2,92,00,000	2,92,00,000
79	Department of Road Transport and Highways .....	Revenue	400,83,00,000	7,00,000
		Capital	794,72,00,000	6,70,00,000
80	Department of Shipping .....	Revenue	82,07,00,000	..
		Capital	95,83,00,000	58,00,000
81	Ministry of Textiles .....	Revenue	104,26,00,000	..
		Capital	97,29,00,000	2,00,00,000
82	Ministry of Tourism .....	Revenue	25,53,00,000	..
		Capital	1,48,00,000	1,48,00,000
83	Ministry of Tribal Affairs .....	Revenue	13,47,00,000	121,36,00,000
		Capital	60,00,000	..
84	Urban Development .....	Revenue	108,45,00,000	2,50,00,000
		Capital	70,74,00,000	10,82,00,000
85	Public Works .....	Revenue	100,13,00,000	14,00,000
		Capital	42,87,00,000	17,00,000
86	Stationery and Printing .....	Revenue	28,88,00,000	..
		Capital	29,00,000	..
87	Ministry of Urban Employment and Poverty Alleviation .....	Revenue	39,00,00,000	..
		Capital	27,50,00,000	27,50,00,000

No. of Vote	Services and purposes	3			
		Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
88	Ministry of Water Resources .....	Revenue Capital	105,88,00,000 6,04,00,000	1,00,000 5,67,00,000	105,89,00,000 11,71,00,000
89	Ministry of Social Justice and Empowerment .....	Revenue Capital	203,34,00,000 31,23,00,000	.. ..	203,34,00,000 31,23,00,000
90	Atomic Energy .....	Revenue Capital	240,20,00,000 161,88,00,000	3,00,000 ..	240,23,00,000 161,88,00,000
91	Nuclear Power Schemes .....	Revenue Capital	272,72,00,000 149,00,00,000	.. 1,00,000	272,72,00,000 149,01,00,000
92	Department of Ocean Development.....	Revenue Capital	25,93,00,000 40,00,000	.. ..	25,93,00,000 40,00,000
93	Department of Space.....	Revenue Capital	277,66,00,000 59,45,00,000	3,00,000 1,00,000	277,69,00,000 59,46,00,000
	CHARGED.— <i>Staff, Household and Allowances of the President</i>	Revenue	..	2,03,00,000	2,03,00,000
95	Rajya Sabha.....	Revenue	8,56,00,000	2,00,000	8,58,00,000
96	Lok Sabha .....	Revenue	20,20,00,000	7,00,000	20,27,00,000
	CHARGED.— <i>Union Public Service Commission</i> .....	Revenue	..	7,49,00,000	7,49,00,000
98	Secretariat of the Vice-President .....	Revenue	16,00,000	..	16,00,000
99	Andaman and Nicobar Islands .....	Revenue Capital	93,69,00,000 38,98,00,000	1,00,000 ..	93,70,00,000 38,98,00,000
100	Chandigarh .....	Revenue Capital	112,05,00,000 15,44,00,000	3,46,00,000 1,33,00,000	115,51,00,000 16,77,00,000
101	Dadra and Nagar Haveli .....	Revenue Capital	38,77,00,000 5,09,00,000	.. ..	38,77,00,000 5,09,00,000
102	Daman and Diu .....	Revenue Capital	33,34,00,000 4,21,00,000	.. ..	33,34,00,000 4,21,00,000
103	Lakshadweep .....	Revenue Capital	33,33,00,000 4,37,00,000	1,00,000 ..	33,34,00,000 4,37,00,000
	TOTAL		46872,65,00,000	88271,46,00,000	135144,11,00,000

## THE APPROPRIATION ACT, 2000

No. 6 OF 2000

[27th March, 2000.]

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 1999-2000.

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

**Short title.**

Issue of Rs.  
14128,71,00,000  
out of the  
Consolidated  
Fund of India  
for the year  
1999-2000.

1. This Act may be called the Appropriation Act, 2000.

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 fourteen thousand one hundred and twenty-eight crores and seventy-one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1999-2000, in respect of the services specified in column 2 of the Schedule.

**Appropriation.**

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

THE SCHEDULE  
(See sections 2 and 3)

No. of Vote	Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	Agriculture .....	Revenue	Rs. 1,00,000	Rs. 1,00,000
		Capital	4,43,00,000	4,43,00,000
2	Other Services of Department of Agriculture and Co-operation .....	Capital	1,00,000	.. 1,00,000
3	Department of Agricultural Research and Education .....	Revenue	22,85,00,000	.. 22,85,00,000
5	Department of Chemicals and Petro-chemicals .....	Capital	4,07,00,000	.. 4,07,00,000
6	Department of Fertilizers .....	Capital	1,00,000	.. 1,00,000
8	Department of Consumer Affairs .....	Revenue	2,43,00,000	.. 2,43,00,000
9	Department of Food and Civil Supplies .....	Revenue	1000,00,00,000	.. 1000,00,00,000
10	Department of Sugar and Edible Oils .....	Capital	22,60,00,000	.. 22,60,00,000
11	Ministry of Coal .....	Capital	2,00,000	.. 2,00,000
13	Department of Supply .....	Revenue	58,00,000	.. 58,00,000
14	Department of Posts .....	Revenue	477,94,00,000	.. 477,94,00,000
		Capital	80,00,000	.. 80,00,000
15	Department of Telecommunications .....	Revenue	1,00,000	.. 1,00,000
		Capital	1,00,000	.. 1,00,000
16	Ministry of Defence .....	Revenue	..	1,00,000 1,00,000
		Capital	1,00,000	.. 1,00,000
22	Capital Outlay on Defence Services .....	Capital	..	7,09,00,000 7,09,00,000
23	Ministry of Environment and Forests .....	Revenue	2,00,000	.. 2,00,000
		Capital	1,33,00,000	.. 1,33,00,000
24	Ministry of External Affairs .....	Revenue	24,97,00,000	.. 24,97,00,000
		Capital	15,00,00,000	.. 15,00,00,000
25	Department of Economic Affairs .....	Revenue	179,41,00,000	.. 179,41,00,000
		Capital	1,00,000	.. 1,00,000
26	Currency, Coinage and Stamps .....	Revenue	..	15,89,00,000 15,89,00,000
27	Payments to Financial Institutions .....	Revenue	471,11,00,000	.. 471,11,00,000
		Capital	2,00,000	.. 2,00,000
	CHARGED.— <i>Interest Payments</i> .....	Revenue	..	8403,30,00,000 8403,30,00,000
29	Transfer to State and Union Territory Governments .....	Revenue	537,46,00,000	.. 537,46,00,000
		Capital	..	267,33,00,000 267,33,00,000
	CHARGED.— <i>Repayment of Debt</i> .....	Capital	..	1,00,000 1,00,000
33	Pensions .....	Revenue	..	3,95,00,000 3,95,00,000
34	Audit .....	Revenue	78,38,00,000	2,08,00,000 80,46,00,000
35	Department of Revenue .....	Revenue	1,00,000	.. 1,00,000
36	Direct Taxes .....	Revenue	34,00,00,000	.. 34,00,00,000
		Capital	2,00,000	.. 2,00,000
37	Indirect Taxes .....	Revenue	35,52,00,000	.. 35,52,00,000
38	Ministry of Food Processing Industries .....	Revenue	1,00,000	.. 1,00,000
		Capital	7,66,00,000	.. 7,66,00,000

No. of Vote	Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
39	Department of Health..... Revenue	2,00,000	..	2,00,000
40	Department of Indian Systems of Medicine and Homoeopathy .....	Revenue 2,00,000	..	2,00,000
		Capital 50,00,000	..	50,00,000
41	Department of Family Welfare .....	Revenue 225,02,00,000	..	225,02,00,000
42	Ministry of Home Affairs .....	Revenue 41,79,00,000	..	41,79,00,000
		Capital 1,00,00,000	..	1,00,00,000
44	Police .....	Revenue 550,41,00,000	..	550,41,00,000
		Capital 1,00,000	..	1,00,000
45	Other Expenditure of the Ministry of Home Affairs .....	Revenue 2,00,000	..	2,00,000
46	Transfers to Union Territory Governments .....	Revenue 2,24,00,000	..	2,24,00,000
		Capital 1,21,00,000	..	1,21,00,000
47	Department of Education .....	Revenue 4,00,000	..	4,00,000
		Capital 75,00,000	..	75,00,000
48	Department of Youth Affairs and Sports .....	Revenue 1,00,000	..	1,00,000
49	Department of Culture .....	Revenue 15,90,00,000	..	15,90,00,000
51	Department of Industrial Development and Industrial Policy and Promotion.....	Revenue 10,29,00,000	..	10,29,00,000
52	Department of Public Enterprises .....	Revenue 2,00,000	..	2,00,000
53	Department of Heavy Industry .....	Revenue 24,64,00,000	..	24,64,00,000
		Capital 4,00,000	..	4,00,000
54	Department of Small Scale Industries and Agro and Rural Industries .....	Revenue 1,00,000	..	1,00,000
56	Broadcasting Services .....	Revenue 17,81,00,000	..	17,81,00,000
58	Law and Justice .....	Revenue 3,16,00,000	..	3,16,00,000
66	Planning .....	Revenue 1,92,00,000	..	1,92,00,000
		Capital 1,00,000	..	1,00,000
67	Department of Statistics .....	Revenue 1,00,000	..	1,00,000
69	Ministry of Power .....	Revenue 64,94,00,000	..	64,94,00,000
		Capital ..	1,50,00,000	1,50,00,000
70	Department of Rural Development .....	Revenue 2,00,000	..	2,00,000
73	Department of Science and Technology .....	Revenue 3,00,000	9,00,000	12,00,000
		Capital 1,00,000	..	1,00,000
74	Department of Scientific and Industrial Research .....	Revenue 3,25,00,000	..	3,25,00,000
76	Ministry of Steel .....	Revenue 2,47,00,000	..	2,47,00,000
		Capital 3,00,00,000	..	3,00,00,000
77	Ministry of Mines .....	Revenue 1,00,000	..	1,00,000
		Capital 52,00,00,000	..	52,00,00,000
78	Surface Transport .....	Revenue 12,59,00,000	..	12,59,00,000
		Capital 4,64,00,000	..	4,64,00,000
79	Roads .....	Revenue 1000,00,00,000	..	1000,00,00,000

No. of Vote	Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund.	Total
		Rs.	Rs.	Rs.
80	Ports, Lighthouses and Shipping .....	Revenue	84,35,00,000	.. 84,35,00,000
81	Ministry of Textiles .....	Revenue	2,00,000	.. 2,00,000
		Capital	19,08,00,000	.. 19,08,00,000
83	Urban Development .....	Capital	14,43,00,000	.. 14,43,00,000
85	Public Works.....	Revenue	1,00,000	.. 1,00,000
		Capital	2,00,000	.. 2,00,000
87	Ministry of Water Resources.....	Revenue	3,00,000	.. 3,00,000
		Capital	4,52,00,000	.. 4,52,00,000
88	Ministry of Social Justice and Empowerment .....	Revenue	1,00,000	.. 1,00,000
89	Atomic Energy .....	Revenue	31,35,00,000	.. 31,35,00,000
91	Department of Electronics .....	Revenue	1,00,000	.. 1,00,000
		Capital	1,00,000	.. 1,00,000
92	Department of Ocean Development .....	Revenue	1,00,000	.. 1,00,000
93	Department of Space .....	Revenue	86,38,00,000	.. 86,38,00,000
	CHARGED.— <i>Staff, Household and Allowances of the President</i> .....	Revenue	.. 77,00,000	77,00,000
95	Rajya Sabha .....	Revenue	1,39,00,000	.. 1,40,00,000
96	Lok Sabha .....	Revenue	.. 25,00,000	25,00,000
99	Andaman and Nicobar Islands .....	Revenue	54,04,00,000	.. 54,04,00,000
		Capital	80,30,00,000	.. 80,30,00,000
100	Chandigarh .....	Revenue	50,61,00,000	.. 50,61,00,000
		Capital	10,14,00,000	.. 10,14,00,000
101	Dadra and Nagar Haveli .....	Revenue	3,46,00,000	.. 3,46,00,000
102	Daman and Diu .....	Revenue	1,14,00,000	.. 1,14,00,000
103	Lakshadweep .....	Revenue	24,60,00,000	.. 24,60,00,000
	TOTAL :		5425,63,00,000	8703,08,00,000
				14128,71,00,000

**THE SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA  
(AMENDMENT) ACT, 2000**

**No. 7 OF 2000**

**[27th March, 2000.]**

**An Act to amend the Small Industries Development Bank of India  
Act, 1989.**

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

**Short title.**

**1. This Act may be called the Small Industries Development Bank of India  
(Amendment) Act, 2000.**

**Amendment  
of section 2.**

**2. In section 2 of the Small Industries Development Bank of India Act, 1989  
(hereinafter referred to as the principal Act),—**

**39 of 1989.**

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

**(b) “chairman and managing director” means the chairman and  
managing director referred to in clause (a) of sub-section (1) of section 6;’;**

**(b) in clause (e), for the words “Managing Director”, the words “chairman and  
managing director and whole-time director” shall be substituted;**

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

**‘(fa) “General Insurance Corporation” means the General Insurance  
Corporation of India formed under section 9 of the General Insurance Business  
(Nationalisation) Act, 1972;’;**

**57 of 1972.**

31 of 1956.

23 of 1955.  
38 of 1959.5 of 1970.  
40 of 1980.

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

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

(e) clause (i) shall be omitted;

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

'(la) "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, 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;'

3. For sections 4 to 6 of the principal Act, the following sections shall be substituted, namely:—

4. The authorised capital of the Small Industries Bank shall be one thousand crores of rupees divided into seventy-five crores fully paid-up equity shares of rupees ten each and twenty-five crores of fully paid-up redeemable preference shares of rupees ten each :

Provided that the Central Government may, on the recommendation of the Board, by notification, increase the authorised capital to an amount not exceeding two thousand crores of rupees consisting of such number of equity shares and redeemable preference shares as it may deem fit.

4A. (1) The Central Government may, at any time after the commencement of the Small Industries Development Bank of India (Amendment) Act, 2000, by notification, convert such number of equity shares held by the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government, not exceeding twenty-five crores, as it may decide, into redeemable preference shares :

Provided that such conversion shall in no case reduce the equity shares held in aggregate by the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government to less than fifty-one per cent.

(2) The redeemable preference shares referred to in sub-section (1) shall—

(a) carry such fixed rate of dividend as the Central Government may specify at the time of such conversion, and

(b) neither be transferable nor carry any voting rights.

(3) The redeemable preference shares referred to in sub-section (1) shall be redeemed by the Small Industries Bank within three years from the date of such conversion in such instalments and in such manner as the Board may determine.

4B. On such date as the Central Government may, in consultation with the Development Bank, by notification, specify (hereinafter referred to as "the specified date"), not less than fifty-one per cent. of the issued capital of the Small Industries Bank which has been subscribed by the Development Bank as on the date immediately preceding the specified date shall stand transferred to, and vested in, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government in such proportion, manner and on such terms and conditions as may be determined by that Government.

4C. (1) The issued capital, of the Small Industries Bank, of four hundred and fifty crores of rupees, immediately before the commencement of the Small Industries

Substitution of new sections for sections 4 to 6. Authorised capital.

Conversion of equity shares into redeemable preference shares.

Transfer of capital.

Issued capital.

Development Bank of India (Amendment) Act, 2000, shall, on such commencement, stand divided into forty-five crores equity shares of rupees ten each.

(2) The Board may, from time to time, increase the issued equity share capital or redeemable preference share capital of the Small Industries Bank by allotment of shares to such persons and on such terms and conditions as the Board may determine:

Provided that no increase in the issued equity capital shall be made in such a manner that the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government, hold in aggregate at any time, less than fifty-one per cent. of the issued equity share capital of the Small Industries Bank.

**Reduction of share capital.**

4D. (1) The Small Industries Bank may, with the prior approval of the Central Government, by a resolution passed in a general meeting of the shareholders, reduce its share capital in any way.

(2) Without prejudice to the generality of the foregoing power, the share capital may be reduced by—

(a) extinguishing or reducing the liability on any of its equity shares in respect of the share capital not paid-up;

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid-up share capital which is lost, or is unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying off any paid-up share capital which is in excess of the wants of the Small Industries Bank.

(3) In any general meeting referred to in sub-section (1), the resolution for reduction of share capital shall be passed by shareholders entitled to vote, voting in person, or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of the votes, if any, cast against the resolution by shareholders so entitled and voting.

**Restriction on exercising of voting right.**

4E. Every shareholder of the Small Industries Bank holding equity shares shall have a right to vote in respect of such shares on every resolution and his voting right on a poll shall be in proportion to his share of the paid-up equity share capital of the Small Industries Bank:

Provided, however, that no shareholder, other than the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government, shall be entitled to exercise voting rights in respect of any equity shares held by him in excess of ten per cent. of the issued equity share capital.

**Management.**

5. (1) The general superintendence, direction and management of affairs and business of the Small Industries Bank shall vest in a Board of Directors which may exercise all powers and do all such acts and things as may be exercised or done by the Small Industries Bank and are not by this Act expressly directed or required to be done by the Small Industries Bank in general meeting.

(2) The Board may direct that any power exercisable by it under this Act shall also be exercisable in such cases and subject to such conditions, if any, as may be specified by it, by the chairman and managing director or the whole-time directors.

(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.

**Constitution of Board.**

6. (1) The Board shall consist of the following, namely:—

(a) a chairman and managing director appointed by the Central Government;

(b) two whole-time directors appointed by the Central Government;

(c) two directors who shall be officials of the Central Government nominated by the Central Government;

(d) three directors to be nominated in the prescribed manner by the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government;

(e) three directors, including one Director from the officials of the State Financial Corporations, nominated by the Central Government from amongst the persons having special knowledge of, or professional experience in, science, technology, economics, industry, banking, 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 Small Industries Bank;

(f) such number of directors not exceeding four elected in the prescribed manner, by shareholders, other than the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government, whose names are entered in the register of shareholders of the Small Industries Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(i) where the total amount of equity share capital issued to such shareholders is ten per cent. or less of the total issued equity share capital, two directors;

(ii) where the total amount of equity share capital issued to such shareholders is more than ten per cent. but less than twenty-five per cent. of the total issued equity share capital, three directors; and

(iii) where the total amount of equity share capital issued to such shareholders is twenty-five per cent. or more of the total issued equity share capital, four directors:

Provided that if the percentage of holding of issued equity share capital with the shareholders, other than the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government, does not permit election of four directors or until the assumption of charge by the elected directors, the Board may at any time co-opt such number of directors, not exceeding four, from amongst the persons having special knowledge of, or professional experience in, science, technology, economics, industry, banking, 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 Board, be useful to the Small Industries Bank for carrying out its functions, who shall hold office until the assumption of charge by the elected directors and an equal number of such co-opted directors shall retire in the order of co-option.

(2) The chairman and managing director and the whole-time directors 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.

(3) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the term of office of the chairman and managing director or the whole-time director, as the case may be, at any time before the expiry of the term specified under sub-section (2) 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 and managing director or the whole-time director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (2) by giving the Central Government, notice of not less than three months in writing.

(4) The chairman and managing director and the whole-time directors shall receive such salary and allowances, as may be determined by the Central Government,

(5) The Central Government may, at any time, remove the chairman and managing director or the whole-time director, as the case may be, from office:

Provided that no person shall be removed from his office, under this sub-section, unless he has been given an opportunity of showing cause against his removal.

(6) Every Director nominated under clauses (c), (d) and (e) of sub-section (1), shall hold office during the pleasure of the authority nominating him.

(7) Subject to the provisions of sub-section (6),—

(a) every Director nominated under clauses (d) and (e) of sub-section (1) shall hold office for such term not exceeding three years as the Central Government, or the authority nominating him, as the case may be, may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

Provided that no such Director shall hold office continuously for a period exceeding six years; and

(b) every Director elected under clause (f) of sub-section (1) shall hold office for three years and thereafter until his successor assumes office and shall be eligible for re-election:

Provided that no such director shall hold office continuously for a period exceeding six years.

(8) The shareholders, other than the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government may, after giving the director a reasonable opportunity of being heard in the manner as may be prescribed, by resolution passed by majority of the votes of such shareholders holding in the aggregate not less than one-half of the equity share capital held by such shareholders, remove any director elected under clause (f) of sub-section (1) and elect another director in his place to fill the vacancy so caused;

(9) (i) A meeting of the Board shall be held at least once in every three months and at least four meetings shall be held every year and the meetings may be held at such places as may be prescribed.

(ii) Notice of every meeting of the Board shall be given in writing to every Director for the time being in India, and at his usual address in India to every other Director.

(10) Subject to the provisions contained in this Chapter, the Board may meet at such times and places and shall observe such rules of procedure in regard to transaction of its business including the manner of adoption of resolutions as may be prescribed.

(11) The chairman and managing director, if for any reason, is unable to attend a meeting of the Board, any other Director nominated by the chairman and managing director in this behalf and in the absence of such nomination, any director elected by the directors present from among themselves, shall preside at the meeting.

(12) 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 and managing director, or in his absence, the person presiding, shall have a second or casting vote.

(13) Save as provided in sub-section (12), every Director of the Board shall have one vote.'

Omission of  
section 7.

Substitution of  
new sections  
for sections 8  
and 9.

4. Section 7 of the principal Act shall be omitted.

5. For sections 8 and 9 of the principal Act, the following sections shall be substituted, namely:—

"8. A person shall not be eligible for being elected as a director under clause (f) of sub-section (1) of section 6, if he—

Disqualifications of directors.

(a) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;

(b) is an undischarged insolvent;

(c) has applied to be adjudicated as an insolvent and his application is pending;

(d) has been convicted by a court of competent jurisdiction, of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence; or

(e) has not paid any call in respect of shares of the Small Industries Bank held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call.

9. (1) The office of a director shall become vacant if he—

(a) becomes subject to any of the disqualifications mentioned in section 8; or

(b) resigns his office by giving notice in writing under his hand and the resignation is accepted; or

(c) absents himself from three consecutive meetings of the Board without obtaining leave of absence from the Board.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), the disqualifications referred to in that clause shall not take effect—

(a) for thirty days from the date of the adjudication, sentence or order;

(b) where any appeal or petition is preferred within thirty days aforesaid against the adjudication, sentence or conviction resulting in the sentence or order until the expiry of seven days from the date on which such appeal or petition is disposed of; or

(c) where within the seven days aforesaid, any further appeal or petition is preferred in respect of the adjudication, sentence, conviction or order and the appeal or petition, if allowed, would result in the removal of the disqualification, until such further appeal or petition is disposed of.".

6. Sections 10 and 11 of the principal Act shall be omitted.

Omission of sections 10 and 11.

7. For section 12 of the principal Act, the following sections shall be substituted, namely:—

"12. (1) The Board shall constitute an Executive Committee consisting of the chairman and managing director, the whole-time directors and such other directors as it may deem fit.

(2) The Executive Committee shall discharge such functions as may be prescribed or as may, without prejudice to the provisions contained in section 34, be delegated to it by the Board.

(3) The Board may constitute such other committees whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons 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 prescribed.

12A. The directors and the members of a committee shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any committee constituted in pursuance of this Act and for attending to any other work of the Small Industries Bank:

Substitution of new sections for section 12. Executive Committee and other committees.

Fees and allowances of directors and members of committees.

Provided that no fees shall be payable to the chairman and managing director or to the whole-time directors or to any other director who is an official of the Government.”.

Amendment of  
section 13.

8. In section 13 of the principal Act, in sub-section (1),—

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

“(i) granting loans and advances to any State Financial Corporation, State Industrial Development Corporation, State Small Industries Corporation, scheduled bank, State Cooperative Bank or such other financial institutions, approved by the Board in this behalf, by way of refinance on such terms and conditions as it may deem fit to impose, of any loans or advances granted to industrial concerns in the small-scale sector by such corporation, bank, or institution or, of any loans or advances granted by the State Financial Corporation or State Industrial Development Corporation to any other industrial concern, which are repayable within a period not exceeding twenty-five years;”;

(b) in clauses (iii) and (iv), for the words “such other financial institutions, as the Central Government may, on the recommendation of the Development Bank, specify”, the words “such other financial institutions as may be approved by the Board in this behalf” shall be substituted;

(c) in clause (vii), for the words “as the Central Government may, on the recommendation of the Development Bank, specify”, the words “approved by the Board in this behalf” shall be substituted;

(d) in clause (xviii), in sub-clause (b), for the words “as the Central Government may, on the recommendation of the Development Bank, specify”, the words “as approved by the Board in this behalf” shall be substituted;

(e) in clause (xix), for the words “as the Central Government may, on the recommendation of the Development Bank, specify”, the words “as approved by the Board in this behalf” shall be substituted;

(f) in clause (xxiii), for the words “the Central Government on the recommendation of the Development Bank”, the words “the Central Government” shall be substituted;

(g) in clause (xxix), in sub-clause (b), for the words “the Development Bank”, the words “the Board” shall be substituted;

(h) in clause (xxx), for the words “the Development Bank”, the words “the Board” shall be substituted.

Amendment of  
section 15.

9. In section 15 of the principal Act, in sub-section (1), in clauses (c) and (d), for the words “approved by the Development Bank”, the words “approved by the Board” shall be substituted.

Substitution of  
new section for  
section 16.

Investment.

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

“16. The Small Industries Bank may invest (whether by way of deposits in banks or otherwise) the amounts available in the Small Industries Development Assistance Fund or the Small Industries General Fund or any other fund or account which are not for the time being required for the transaction of business in such manner as may be approved by the Board.”.

Amendment of  
section 19.

11. In section 19 of the principal Act, in sub-section (1), the words “and the Development Bank” shall be omitted.

**12.** After Chapter IV of the principal Act, the following Chapters shall be inserted, namely:—

Insertion of  
new Chapters  
IVA and IVB.

#### 'CHAPTER IVA'

##### SHARES

**20A.** (1) Save as otherwise provided in sub-section (2), the equity shares of the Small Industries Bank shall be freely transferable.

Free transfer-  
ability of  
shares.

(2) Nothing contained in sub-section (1) shall entitle the Development Bank, the public sector banks, the General Insurance Corporation, the Life Insurance Corporation and other institutions owned or controlled by the Central Government to transfer any shares held by them in the Small Industries Bank if such transfer will result in reducing the equity shares held in aggregate by them to less than fifty-one per cent. of the issued equity share capital of the Small Industries Bank.

**20B.** (1) The Small Industries Bank shall keep at its head office a register, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available, namely:—

Register of  
shareholders.

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

Provided that nothing in this sub-section shall apply to the shares held with a depository under the Depositories Act, 1996.

22 of 1996.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Small Industries Bank to keep the register of the shareholders in computer floppies, diskettes, compact disk or any other electronic form, subject to such safeguards, as may be prescribed.

1 of 1872.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of, or extract from, the register of the shareholders, certified to be a true copy under the hand of an officer of the Small Industries Bank authorised in this behalf, shall, in all legal proceedings, be admissible in evidence.

22 of 1996.

(4) The Register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be a Register of the shareholders for the purposes of this Act.

22 of 1996.

**20C.** Notwithstanding anything contained in section 20B, no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Small Industries Bank:

Trust not to be  
entered on the  
register of  
shareholders.

Provided that nothing in this section shall apply to a depository in respect of the shares held by it as a registered owner on behalf of a beneficial owner.

*Explanation.*—For the purposes of section 20B and this section, the expressions "beneficial owner", "depository" and "registered owner" shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.

**20D.** (1) The Board may refuse to register the transfer of any shares in the name of the transferee on any one or more of the following grounds, and on no other ground, namely:—

Board's right to  
refuse regis-  
tration of transfer  
of shares.

(a) the transfer of the shares is in contravention of the provisions of this Act or regulations made thereunder or any other law;

(b) the transfer of the shares, in the opinion of the Board, is prejudicial to the interests of the Small Industries Bank or to the public interest;

(c) the transfer of shares is prohibited by an order of a court, tribunal or any other authority under any law for the time being in force.

(2) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of the Small Industries Bank is lodged with it for the purpose of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds referred to in sub-section (1) but also,—

(a) if it has formed the opinion that such registration ought not to be so refused, effect such registration; and

(b) if it has formed the opinion that such registration ought to be refused on any of the grounds mentioned in sub-section (1), intimate the transferor and the transferee by notice in writing.

(3) An appeal against the order of refusal of the Board under sub-section (2) shall lie to the Central Government and the procedure for filing and hearing of such appeal shall be in accordance with the rules made by the Central Government in this behalf.

20E. Notwithstanding anything contained in the Indian Trusts Act, 1882, the shares of the Small Industries Bank shall be deemed to be included among the securities enumerated in section 20 of the said Act.

2 of 1882.

Shares to be securities under the Indian Trusts Act, 1882.

Annual general meeting.

#### CHAPTER IVB

##### MEETINGS AND PROCEEDINGS

20F. (1) The Small Industries Bank shall in each year hold, in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting and that of the next:

Provided that the Small Industries Bank may hold the first annual general meeting within a period of six months from the date on which it allots shares for the first time to public for subscription:

Provided further that the Central Government may extend the time within which any annual general meeting shall be held by a period not exceeding three months.

(2) Every annual general meeting shall be called for a time during business hours, on a day that is not a public holiday, and shall be held either at head office or at some other place within the city or town in which the head office is situated.

*Explanation.*—For the purposes of this section, “public holiday” means a public holiday within the meaning of the Negotiable Instruments Act, 1881:

26 of 1881.

Provided that no Sunday shall be deemed to be such a holiday in relation to any meeting:

Provided further that no day declared by the Central Government to be a public holiday shall be deemed to be such a holiday, in relation to any meeting, unless the declaration was notified before the issue of the notice convening such meeting.

20G. (1) The shareholders present at an annual general meeting shall be entitled to discuss and adopt—

(a) the balance-sheet and profit and loss account of the Small Industries Bank made up to the date on which its accounts are closed and balanced;

Matters to be discussed and procedure in annual general meeting.

(b) the report of working of the Small Industries Bank for the period covered by the accounts;

(c) the auditor's report on the balance-sheet and accounts;

(d) proposals for declaration of dividend and capitalisation of reserves;

(e) appointment of auditors referred to in sub-section (1) of section 30.

(2) The shareholders present at an annual general meeting may also discuss any other matter to be transacted at such meetings in accordance with the provisions of this Act.

(3) The matters relating to—

(a) the manner in which annual general meeting or other meetings are held under this Act and the procedure to be followed thereat;

(b) the manner in which voting rights may be exercised and resolutions may be passed; and

(c) the procedure for transaction of business at such meetings and related matters,

shall be such as may be prescribed.'

13. In section 21 of the principal Act, in sub-section (2), for the words "Development Bank", the word "Board" shall be substituted.

Amendment of  
section 21.

14. In section 23 of the principal Act, for the words "Development Bank", the word "Board" shall be substituted.

Amendment of  
section 23.

15. In section 25 of the principal Act,—

(a) in sub-section (2), for the words "Development Bank", the word "Board" shall be substituted;

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

"(3) The Small Industries Development Assistance Fund shall be audited by the auditors, appointed under sub-section (1) of section 30, who shall make a separate report thereon.";

(c) in sub-section (5), the words "and the Development Bank" shall be omitted.

16. In section 26 of the principal Act, the words ", on the recommendation of the Development Bank," shall be omitted.

Amendment of  
section 26.

17. In section 28 of the principal Act, in sub-section (2), for the words "Development Bank", the word "Board" shall be substituted.

Amendment of  
section 28.

18. In section 29 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(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), and after transferring a part of the profits to such other reserves or funds as may be considered appropriate, the Board may, out of its net profits, propose a dividend."

19. In section 30 of the principal Act,—

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

"(1) The accounts of the Small Industries Banks 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 Small Industries Bank in general meeting of the shareholders out of the panel of auditors approved by the Reserve Bank for such term and on such remuneration as the Reserve Bank may fix.";

Amendment of  
section 30.

*(b) in sub-section (5), the words "and the Development Bank" shall be omitted.*

Amendment of  
section 35.

**20. In section 35 of the principal Act, for the words "the Central Government, the Reserve Bank and the Development Bank", the words "the Central Government and the Reserve Bank" shall be substituted.**

Amendment of  
section 36.

**21. In section 36 of the principal Act,—**

*(a) in sub-section (2), for the words "as may be specified by the Development Bank", the words "as may be specified by the Board" shall be substituted;*

*(b) in sub-section (3), the words "or the Development Bank" shall be omitted..*

Insertion of  
new section  
37A.

Amounts and  
securities to be  
held in trust.

**22. After section 37 of the principal Act, the following section shall be inserted, namely:—**

**"37A. (1) Any sums received by a borrowing institution in repayment or realisation of loans and advances refinanced either wholly or partly by the Small Industries Bank shall, to the extent of the accommodation granted by the Small Industries Bank and remaining outstanding, be deemed to have been received by the borrowing institution in trust for the Small Industries Bank, and shall accordingly be paid by such institution to the Small Industries Bank, as per the repayment schedule fixed by the Small Industries Bank."**

**(2) Where an accommodation has been granted to a borrowing institution, all securities held, or which may be held, by such borrowing institution, on account of any transaction in respect of which such accommodation has been granted by the Small Industries Bank, shall be held by such institution in trust for the Small Industries Bank."**

Amendment of  
section 45.

**23. In section 45 of the principal Act, for the word "chairman", the words "chairman and managing director, the whole-time director" shall be substituted.**

Insertion of  
new section  
51A.

Power to make  
rules by  
Central  
Government.

**24. After section 51 of the principal Act, the following section shall be inserted, namely:—**

**"51A. (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 procedure for filing and hearing of appeal against the refusal to register the transfer of shares by the Board under sub-section (3) of section 20D; and**

**(ii) any other matter which has to be, or may be, prescribed by rules under this Act."**

Amendment of  
section 52.

**25. In section 52 of the principal Act,—**

**(a) in sub-section (1), the words "with the previous approval of the Development Bank," shall be omitted;**

**(b) in sub-section (2), for clause (a), the following clauses shall be substituted, namely:—**

**"(a) the removal of Director under sub-section (8) of section 6;**

**(aa) the places of meetings of the Board under this Act and the procedure to be followed at such meetings including the quorum necessary for transaction of business and the manner of adoption of resolution under section 6;**

**(ab) the functions to be discharged by the Executive Committee under sub-section (2) of section 12;**

(ac) the places of meetings of the Executive Committee and the procedure to be followed at such meetings under sub-section (4) of section 12;

(ad) such fees and allowances which may be paid to the directors and members of the Executive Committee under section 12A;

(ae) the particulars to be prescribed in the register of shareholders under clause (iv) of sub-section (1) of section 20B;

(af) the procedure relating to maintenance of register of shareholders in electronic form under sub-section (2) of section 20B;

(ag) the matters relating to the annual general meeting under sub-section (3) of section 20G;”;

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

“(3) Every rule made by the Central Government, and every regulation made by the Board 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.”.

# THE MIZORAM UNIVERSITY ACT, 2000

## ARRANGEMENT OF SECTIONS

### SECTIONS

1. Short title and commencement.
2. Definitions.
3. Establishment of the University.
4. Objects of the University.
5. Powers of the University.
6. Transfer of properties of North-Eastern Hill University.
7. Jurisdiction.
8. University open to all classes, castes and creed.
9. The Visitor.
10. Officers of the University.
11. The Vice-Chancellor.
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17. Other officers.
18. Authorities of the University.
19. The Court.
20. The Executive Council.
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22. The College Development Council.
23. The Boards of Studies.
24. The Finance Committee.
25. Other authorities of the University.
26. Powers to make Statutes.
27. Statutes how to be made.
28. Power to make Ordinances.
29. Regulations.
30. Annual report.
31. Annual accounts.
32. Returns and information.
33. Transfer of services of certain employees of the North-Eastern Hill University.
34. Conditions of service of employees.
35. Procedure of appeal and arbitration in disciplinary cases against students.
36. Right to appeal.
37. Provident and pension funds.
38. Disputes as to constitution of University authorities and bodies.
39. Filling of casual vacancies.
40. Proceedings of University authorities or bodies not invalidated by vacancies.
41. Protection of action taken in good faith.
42. Mode of proof of University record.
43. Power to remove difficulties.
44. Transitional provisions.
45. Completion of courses of studies in Colleges or Institutions affiliated to the University.
46. Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.
47. Amendment of Act 24 of 1973.

### THE SCHEDULE

THE MIZORAM UNIVERSITY  
ACT, 2000

No. 8 OF 2000

[25th April, 2000.]

An Act to establish and incorporate a teaching and affiliating University in the State of Mizoram and to provide for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Mizoram University Act, 2000.

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.

\* 2.7.2001 : Vide notification no. S.O. 604 (E), dt. 29.6.2001

## Definitions.

**2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—**

- (a) "Academic Council" means the Academic Council of the University;
- (b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;
- (c) "Board of Studies" means the Board of Studies of the University;
- (d) "College Development Council" means the College Development Council of the University;
- (e) "College" means a College maintained by, or admitted to the privileges of, the University;
- (f) "Court" means the Court of the University;
- (g) "Department" means a Department of Studies and includes a Centre of Studies;
- (h) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;
- (i) "employee" means any person appointed by the University and includes teachers and other staff of the University;
- (j) "Executive Council" means the Executive Council of the University;
- (k) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or an Institution, maintained by the University;
- (l) "Institution" means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;
- (m) "North-Eastern Hill University" means the University established under section 3 of the North-Eastern Hill University Act, 1973;
- (n) "Principal" means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;
- (o) "recognised Institution" means an institution of higher learning recognised by the University within the State of Mizoram;
- (p) "recognised teachers" means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution admitted to the privileges of the University;
- (q) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;
- (r) "School" means a School of Studies of the University;
- (s) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University for the time being in force;
- (t) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;
- (u) "University" means the Mizoram University established and incorporated as a University under this Act;
- (v) "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Vice-Chancellor and Pro-Vice-Chancellor of the University.

24 of 1973.

**3. (1)** There shall be established a University by the name of "Mizoram University".

Establishment  
of the Universi-  
ty.

**(2)** The headquarters of the University shall be at Aizawl.

**(3)** The first Vice-Chancellor and the first members of the Court, the Executive Council, the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Mizoram University".

**(4)** The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

**4.** The objects of the University shall be to disseminate and advance knowledge by providing instructional and research facilities in such branches of learning as it may deem fit; to make provisions for integrated courses in humanities, natural and physical sciences, social sciences, forestry and other allied disciplines in the educational programmes of the University; to take appropriate measures for promoting innovations in teaching-learning process, inter-disciplinary studies and research; to educate and train manpower for the development of the State of Mizoram; and to pay special attention to the improvement of the social and economic conditions and welfare of the people of that State, their intellectual, academic and cultural development.

Objects of the  
University.

**5.** The University shall have the following powers, namely:—

Powers of the  
University.

*(i)* to provide for instructions in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

*(ii)* 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 any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

*(iii)* to organise and to undertake extramural studies, training and extension services;

*(iv)* to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

*(v)* to provide facilities through the distance education system to such persons as it may determine;

*(vi)* to institute Principalships, Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Readerships, Lecturerships or other teaching or academic positions;

*(vii)* to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

*(viii)* to recognise persons for imparting instructions in any College or Institution admitted to the privileges of the University;

*(ix)* to appoint persons working in any other University or organisation as teachers of the University for a specified period;

*(x)* to create administrative, ministerial and other posts and to make appointments thereto;

*(xi)* to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;

- (xii) to establish, with the prior approval of the Central Government, such Centres and specialised laboratories or other units for research and instruction as are, in the opinion of the University necessary for the furtherance of its objects;
- (xiii) to institute and award fellowships, scholarships, studentships, medals and prizes;
- (xiv) to establish and maintain Colleges, Institutions and Halls;
- (xv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;
- (xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;
- (xvii) to admit to its privileges colleges and institutions within the State of Mizoram not maintained by the University; to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes; to recognise, guide, supervise, and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;
- (xviii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;
- (xix) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;
- (xx) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;
- (xxi) to demand and receive payment of fees and other charges;
- (xxii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;
- (xxiii) to lay down conditions of service of all categories of employees, including their code of conduct;
- (xxiv) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;
- (xxv) to make arrangements for promoting the health and general welfare of the employees;
- (xxvi) 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;
- (xxvii) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;
- (xxviii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

**Transfer of properties of North-Eastern Hill University.**

**Jurisdiction.**

6. On and from the commencement of this Act, all properties of the North-Eastern Hill University in the State of Mizoram shall stand transferred to, and vest in, the University and shall be applied to the objects for which the University is established.

7. (1) The jurisdiction of the University shall extend to the whole of the State of Mizoram.

(2) On and from the commencement of this Act, all Colleges, Institutions, Schools and Departments affiliated to, or admitted to the privileges of, or maintained by, the North-Eastern Hill University shall stand affiliated to, or admitted to the privileges of, or maintained by, the University.

(3) On and from the date of commencement of this Act, the North-Eastern Hill University shall cease to exercise its jurisdiction in the State of Mizoram.

8. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

University  
open to all  
classes, castes  
and creed.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

9. (1) The President of India shall be the Visitor of the University.

The Visitor.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt within the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment, and of any College or Institution maintained by the University or admitted to its privileges; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (2), give notice of his intention to cause an inspection or inquiry to be made,—

(a) to the University, if such inspection or inquiry is to be made in respect of the University or any College or Institution maintained by it, or

(b) to the management of the College or Institution, if the inspection or inquiry is to be made in respect of College or Institution admitted to the privileges of the University,

and the University or the management, as the case may be, shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University or the management, as the case may be, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University or the management shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of

address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Visitor may, if the inspection or inquiry is made in respect of any College or Institution admitted to the privileges of the University; address the management concerned through the Vice-Chancellor with reference to the result of such inspection or inquiry, his views thereon and such advice as he may be pleased to offer upon the action to be taken thereon.

(9) The Executive Council or the management, as the case may be, shall communicate, through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(10) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such directions as he may think fit and the Executive Council or the management, as the case may be, shall comply with such directions.

(11) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar 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.

(12) The Visitor shall have such other powers as may be prescribed by the Statutes.

Officers of the University.

**10. The following shall be the officers of the University:—**

(1) the Vice-Chancellor;

(2) the Pro-Vice-Chancellor;

(3) the Deans of Schools;

(4) the Registrar;

(5) the Finance Officer;

(6) the Librarian; and

(7) such other officers as may be declared by the Statutes to be officers of the University.

The Vice-Chancellor.

11. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The 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 Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

12. The Pro-Vice-Chancellor shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Pro-Vice-Chancellor.

13. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Deans of Schools.

14. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

The Registrar.

(2) The Registrar shall have the power to enter into agreement, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer.

15. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Librarian.

16. The Librarian shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other officers.

17. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

18. The following shall be the authorities of the University:—

(1) the Court;

(2) the Executive Council;

(3) the Academic Council;

(4) the College Development Council;

(5) the Board of Studies;

(6) the Finance Committee; and

(7) such other authorities as may be declared by the Statutes to be the authorities of the University.

**The Court.**

**19.** (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

**The Executive Council.**

**20.** (1) The Executive Council shall be the principal executive body of the University.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

**The Academic Council.**

**21.** (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

**The College Development Council.**

**22.** (1) The College Development Council shall be responsible for admitting Colleges to the privileges of the University.

(2) The constitution of the College Development Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

**The Boards of Studies.**

**23.** The constitution, powers and functions of the Boards of Studies shall be prescribed by the Statutes.

**The Finance Committee.**

**24.** The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

**Other authorities of the University.**

**25.** The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

**Powers to make Statutes.**

**26.** Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment 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;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(e) the appointment of teachers, academic staff working in any other University or organisation for a specific period for undertaking a joint project;

- (f) the conditions of service of employees including provisions pension, insurance and provident fund, the manner of termination of service and disciplinary action relating to employees of the University;
- (g) the principles governing the seniority of service of the employees of the University;
- (h) the procedure for arbitration in cases of dispute between employees or students and the University;
- (i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;
- (j) the conferment of autonomous status on a College or an Institution or a Department;
- (k) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges and Institutions;
- (l) the conferment of honorary degrees;
- (m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (n) the conditions under which Colleges and Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;
- (o) the management of Colleges and Institutions established by the University;
- (p) the delegation of powers vested in the authorities or officers of the University;
- (q) the maintenance of discipline among the employees and students;
- (r) all other matters which by this Act are to be or may be provided for by the Statutes.

**27. (1)** The first Statutes are those set out in the Schedule.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

Statutes how to  
be made.

Power to make  
Ordinances.

**28. (1)** 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 courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;
- (j) the establishment of Centres of Studies, Boards of Studies, Specialised Laboratories and other Committees;
- (k) the manner of co-operation and collaboration with other Universities, institutions and other agencies including learned bodies or associations;
- (l) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (m) the institution of fellowships, scholarships, studentships, medals and prizes;
- (n) the supervision of management of Colleges and Institutions admitted to the privileges of the University;
- (o) the setting up of a machinery for redressal of grievances of employees; and
- (p) all other matters which by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

**(2)** The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

## Regulations.

**29.** The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

## Annual report.

**30. (1)** The annual report of the University shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

**(2)** The Court shall submit the annual report to the Visitor along with its comments, if any.

**(3)** 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 Houses of Parliament.

**31. (1)** The annual accounts and balance-sheet of the University shall be prepared under the directions of the 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 persons as he may authorise in this behalf.

Annual accounts.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

**32.** The University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require.

Returns and information.

**33. (1)** Every person who, immediately before the commencement of this Act, is holding or discharging the duties of any post or office in connection with the affairs of the North-Eastern Hill University in any area which on that date falls within the State of Mizoram shall be deemed to have been transferred to the services of the Mizoram University on the same terms and conditions and to the same rights and privileges as to pension, gratuity, provident fund and other matters as he would have been had under the North-Eastern Hill University Act, 1973.

Transfer of services of certain employees of the North-Eastern Hill University.

(2) Any dispute between a person referred to in sub-section (1) and the University shall, at the request of such person, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 34 shall, as far as may be, apply to a reference made under this sub-section.

**34. (1)** Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

Conditions of service of employees.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

**35. (1)** Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

Procedure of appeal and arbitration in disciplinary cases against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2); (3), (4) and (5) of section 34 shall, as far as may be, apply to a reference made under this sub-section.

24 of 1973.

26 of 1996.

Right to appeal.

36. Every employee or student of the University or of a College or Institution maintained by the University or admitted to its privileges shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of the Principal or the management of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Provident and pension funds.

37. (1) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension 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.

28 of 1925.

Disputes as to constitution of University authorities and bodies.

38. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Filling of casual vacancies.

39. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opted the member whose place has become vacant and person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of University authorities or bodies not invalidated by vacancies.

40. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Protection of action taken in good faith.

41. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Mode of proof of University record.

42. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution, or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

1 of 1872.

Power to remove difficulties.

43. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional provisions.

44. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Vice-Chancellor shall be appointed by the Visitor in such manner and on such conditions as may be deemed fit and each of the said officer shall hold office for such term, not exceeding five years as may be specified by the Visitor;

(b) the first Registrar and the first Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty members and eleven members, respectively, who shall be nominated by the Visitor and shall hold office for a term of three years;

(d) the first College Development Council shall consist of not more than ten members, who shall be nominated by the Visitor and they shall hold office for a term of three years;

(e) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Visitor and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

**45.** Notwithstanding anything contained in this Act, or in the Statutes or the Ordinances, any student of a College, Institution, School or Department, who, immediately before the admission of such College, Institution, School or Department, to the privileges of the University, was studying for a degree, diploma or certificate of the North-Eastern Hill University, shall be permitted by the University, to complete his course for that degree, diploma or certificate, as the case may be, and the Mizoram University and such College, Institution, School or Department, shall provide for the instructions and examination of such student in accordance with the syllabus of studies of the North-Eastern Hill University.

Completion of  
courses of  
studies in  
Colleges or  
Institutions  
affiliated to the  
University.

**46. (1)** Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

Statutes,  
Ordinances and  
Regulations to  
be published in  
the Official  
Gazette and to  
be laid before  
Parliament.

(2) Every Statute, Ordinance or 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 Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance 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 Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

**47. In the North-Eastern Hill University Act, 1973,—**

Amendment of  
Act 24 of 1973.

(i) in section 1, in sub-section (2), for the words "Union territories of Arunachal Pradesh and Mizoram", the words "State of Arunachal Pradesh" shall be substituted;

(ii) in section 2, in clause (l), for the words "Union territories of Arunachal Pradesh and Mizoram", the words "State of Arunachal Pradesh" shall be substituted;

(iii) in section 6, in sub-section (1), for the words "Union territories of Arunachal Pradesh and Mizoram", the words "State of Arunachal Pradesh" shall be substituted.

## THE SCHEDULE

(See section 27)

### THE STATUTES OF THE UNIVERSITY

#### *The Vice-Chancellor*

1. (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(2) The Committee referred to in clause (1) shall consist of three persons, none of whom shall be an employee of the University or an institution associated with the University, or a member of the Executive Council or Academic Council or of any other authority of the University. Out of the three persons, two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convenor of the Committee.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The 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 notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him or till his successor is appointed and enters upon his office, whichever is earlier:

(5) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) The Vice-Chancellor shall be paid a monthly salary and allowances other than the house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(ii) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Executive Council with the approval of the Visitor from time to time:

Provided that where an employee of the University or a College or an Institution maintained by or affiliated to it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the 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 the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been member of any pension scheme, the University shall make the necessary contribution to such scheme.

(iii) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(iv) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the 1st day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(v) In addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service. This half pay leave may also be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave due.

(6) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior most professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor attends to the duties of his office, as the case may be.

#### *Powers and duties of the Vice-Chancellor*

2. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the convocations held for conferring degrees.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meeting of the Executive Council, the Academic Council and the Finance Committee.

#### *Pro-Vice-Chancellor*

3. (1) Every Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor;

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint

the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for re-appointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (6) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until a new Vice-Chancellor or the Vice-Chancellor, as the case may be, assumes office:

Provided also that when the office of the Vice-Chancellor becomes vacant and there is not Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Executive Council may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed shall cease to hold office as such as soon as a Vice-Chancellor is appointed and enters upon his office.

(3) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Executive Council from time to time.

(4) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

#### *Registrar*

4. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the officer shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff, as may be specified in the order of the Executive Council 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 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 Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon concluding of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Executive Council, the Academic Council and the College Development Council, but shall not be deemed to be a member of any of these authorities and he shall be *ex officio* Member-Secretary of the Court.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charges;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council, the College Development Council, and of any Committees appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council, the College Development Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council, the Academic Council and the College Development Council;

(e) to arrange for and superintend the examinations of the University in accordance with the manner prescribed by the Ordinances;

(f) to supply to the Visitor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(g) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleading or depute his representative for the purpose; and

(h) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time by the Executive Council or the Vice-Chancellor.

*The Finance Officer*

5. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that a Finance Officer shall retire on attaining the age of sixty years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Finance Officer is vacant or when the 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 Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(6) The 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 Executive Council or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose 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 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, Colleges and Institutions maintained by the University;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, Centre, Laboratory, College or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

#### *Deans of Schools of Studies*

6. (1) Every Dean of a School of Studies shall be appointed by the Vice-Chancellor from among the Professors in the School for a period of three years and he shall be eligible for re-appointment:

Provided that a Dean on attaining the age of sixty years shall cease to hold office as such:

Provided further that if at any time there is no Dean in a School, the Vice-Chancellor, Pro-Vice-Chancellor or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of the School.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose:

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

#### *Heads of Departments*

7. (1) In the case of Departments which have more than one professor, the head of the Department shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from among the Professors.

(2) In the case of Departments where there is no Professor or there is only one Professor, the Executive Council shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

Provided that it shall be open to a Professor or Reader to decline the offer of appointment as the Head of the Department.

(3) A Professor appointed as the Head of the Department shall hold office as such for a period of three years and shall be eligible for re-appointment.

(4) A Head of a Department may resign his office at any time during his tenure of office.

(5) A Head of a Department shall perform such functions as may be prescribed by the Ordinances.

#### *Proctor*

8. (1) The Proctor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor and shall exercise such powers and perform such duties as may be assigned to him by the Vice-Chancellor.

(2) The Proctor shall hold office for a term of two years and shall be eligible for reappointment.

#### *Librarian*

9. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time officer of the University.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

#### *Meetings of the Court*

10. (1) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year.

(2) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and the financial estimates for the next year shall be presented.

(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 Court at least seven days before the date of the annual meeting.

(4) Twelve members of the Court shall form a quorum for a meeting of the Court.

(5) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

*Quorum for meetings of the Executive Council*

11. Five members of the Executive Council shall form a quorum for a meeting of the Executive Council:

*Powers and functions of the Executive Council*

12. (1) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other academic staff and Principals of Colleges and Institutions maintained by the University;

Provided that no action shall be taken by the Executive Council in respect of the number, qualification and the emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary, and Principals of Colleges and Institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iv) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(v) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vi) 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;

(vii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time as it may think

fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(ix) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(x) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xi) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xii) 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;

(xiii) 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 Academic Council;

(xiv) to select a common seal for the University and provide for the custody and use of such seal;

(xv) to make such special arrangements as may be necessary for the residence and discipline of women students;

(xvi) to delegate any of its powers to the Vice-Chancellor, the Pro-Vice-Chancellor, the Deans, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes;

(xviii) to provide for inviting Writers-in-Residence and determine the terms and conditions of such invitations;

(xix) to provide for the appointment of Visiting Professors, Emeritus Professors; Consultants and Scholars and determine the terms and conditions of such appointments; and

(xx) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

#### *Quorum for meetings of the Academic Council*

13. Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

#### *Powers and functions of the Academic Council*

14. Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instructions, co-ordinating teaching among the Colleges and the Institutions, evaluation of research or improvement in academic standards;

(b) to bring about inter-School co-ordination, to establish or appoint committees or boards, for taking up projects on an inter-School basis;

(c) to consider matters of general academic interest either on its own initiative or on a reference by a School or the Executive Council and to take appropriate action thereon; and

(d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residences, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

*Schools of Studies and Departments*

15. (1) The University shall have such Schools of Studies as may be specified in the Statutes.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council and shall hold office for a period of three years.

(3) The powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Each School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

(i) Teachers of the Department;

(ii) Persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) Such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

*Board of Studies*

16. (1) Each Department shall have a Board of Studies.

(2) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic Council, the functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(a) courses of studies and appointment of examiners for courses, but excluding research degrees;

(b) appointment of supervisors of research; and

(c) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

*Finance Committee*

17. (1) The Finance Committee shall consist of the following members, namely:—

- (i) the Vice-Chancellor;
- (ii) the Pro-Vice-Chancellor;
- (iii) three persons nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and
- (iv) three persons nominated by the Visitor.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the Budget, should be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

*Selection Committees*

18. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Colleges and Institutions maintained by the University.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, Pro-Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:—

TABLE

1	2
Professor	<ul style="list-style-type: none"> <li>(i) The Head of the Department concerned if he is a Professor.</li> <li>(ii) One Professor to be nominated by the Vice-Chancellor.</li> <li>(iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.</li> </ul>

1	2
Reader/Lecturer	<ul style="list-style-type: none"> <li>(i) The Head of the Department concerned.</li> <li>(ii) One Professor to be nominated by the Vice-Chancellor.</li> <li>(iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader or a Lecturer will be concerned.</li> </ul>
Registrar/Finance Officer	<ul style="list-style-type: none"> <li>(i) Two members of the Executive Council nominated by it; and</li> <li>(ii) One person not in the service of the University, nominated by the Executive Council.</li> </ul>
Librarian	<ul style="list-style-type: none"> <li>(i) Two persons not in the service of the University, who have special knowledge of the subject of the Library Science/Library Administration to be nominated by the Executive Council.</li> <li>(ii) One person not in the service of the University, nominated by the Executive Council.</li> </ul>
Principal of College or Institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

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.

2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence, the Pro-Vice-Chancellor shall preside at the meetings of a Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the persons nominated by the Executive Council under clause (2):

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The meeting of a Selection Committee shall be convened by the Vice-Chancellor or in his absence by the Pro-Vice-Chancellor.

(5) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.

(6) If the Executive Council is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(7) Appointments to temporary posts shall be made in the manner indicated below:—

(i) 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 clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months.

(ii) 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 Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee of a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

#### *Special mode of appointment*

19. (1) Notwithstanding anything contained in Statute 18, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

#### *Appointment for a fixed tenure*

20. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

#### *Recognised teachers*

21. (1) The qualifications of recognised teacher shall be such as may be prescribed by the Ordinances.

(2) All applications for the recognition of teachers shall be made in such manner as may be laid down in the Ordinances.

(3) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(4) The period of registration of a teacher shall be determined by the Ordinances made in that behalf.

(5) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

(6) Any person aggrieved by an order of withdrawal under clause (5) may, within three months from the date of communication to him of such order, appeal to the Executive Council which may pass such orders thereon as it thinks fit.

#### *Committees*

22. (1) Any Authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(2) Any such Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing.

#### *Terms and conditions of service and code of conduct of the teachers, etc.*

23. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(3) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

#### *Terms and conditions of service and code of conduct of other employees*

24. All the employees of the University, other than the teachers and other academic staff of the University, shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

#### *Seniority list*

25. (1) Whenever, in accordance with the 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 Executive Council may, from time to time, prescribe.

(2) It shall be the duty of the 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 Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

*Removal of employees of the University*

26. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying 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 Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

*Honorary degrees*

27. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The 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 Visitor, any honorary degree conferred by the University.

*Withdrawal of degrees, etc.*

28. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

*Maintenance of discipline among students of the University*

29. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a proctor and to such other officers as he may specify in this behalf.

(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 Vice-Chancellor may, in 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 a College, Institution or Department or a School 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, College, Institution or Department or a School 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 principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University as may be necessary for the proper conduct of such Colleges, Institutions, Schools and teaching Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principal and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

(6) 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 Vice-Chancellor and other authorities of the University.

*Maintenance of discipline among Students of College, etc.*

30. All powers relating to discipline and disciplinary action in relation to students of a College or an Institution, not maintained by the University, shall vest in the Principal of the College or Institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

*Admission of Colleges, etc., to the privileges of the University*

31. (1) Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council and the College Development Council may decide on the following conditions, namely:—

(i) Every such College or Institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to

be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the College or Institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a College or an Institution shall be prescribed by the Ordinances:

Provided that the said condition shall not apply in the case of Colleges and Institutions maintained by Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or Institution, and two teachers of the University nominated by the Executive Council.

(ii) Every such College or Institution shall satisfy the Executive Council and the College Development Council on the following matters, namely:—

- (a) the suitability and adequacy of its accommodation and equipment for teaching;
- (b) the qualifications and adequacy of its teaching staff and the conditions of their service;
- (c) the arrangements for the residence, welfare, discipline and supervision of students;
- (d) the adequacy of financial provision made for the continued maintenance of the College or Institution; and
- (e) such other matters as are essential for the maintenance of the standards of University education.

(iii) No College or Institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council.

(iv) Colleges and Institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect.

(v) A College or an Institution shall not, without the previous permission of the Executive Council, College Development Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principals of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(3) The service conditions of the administrative and other non-academic staff of every College or Institution referred to in clause (2) shall be such as may be laid down in the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(4) Every College or Institution admitted to the privileges of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the College Development Council and Executive Council with such recommendations as it may deem fit to make.

(5) The College Development Council and the Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report to the Governing Body of the College or Institution with such remarks, if any, as they may deem fit for suitable action.

(6) The Executive Council may, after consulting the College Development Council and Academic Council, withdraw any privileges granted to a College or an Institution, at any time it considers that the College or Institution does not satisfy any of the conditions on the fulfilment of which the College or Institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council why such action should not be taken.

(7) Subject to the conditions set forth in clause (1), the Ordinances may prescribe—

(i) such other conditions as may be considered necessary;

(ii) the procedure for the admission of Colleges and Institutions to the privileges of the University and for the withdrawal of those privileges.

#### *Convocations*

32. Convocation of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

#### *Acting Chairman of meetings*

33. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

#### *Resignation*

34. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

#### *Disqualification*

35. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law 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 subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

#### *Residence condition for membership and office*

36. Notwithstanding anything contained in the statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

*Membership of authorities by virtue of membership of other bodies*

37. Notwithstanding anything contained in the 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.

*Alumni Association*

38. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

*Students' Council*

39. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) all students who have won prizes in the previous academic year in the fields of studies, fine arts, sports and extension work;

(iii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports, activities and all-round development of personality:

Provided that any student of the University 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, students' 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 Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

*Ordinances how made*

40. (1) The first Ordinances made under sub-section (2) of section 28 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 28, other than those enumerated in clause (n) of sub-section (1) thereof, shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

#### *Regulations*

41. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinance to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

#### *Delegation of Powers*

42. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

**THE APPROPRIATION (RAILWAYS) No. 2  
ACT, 2000**

No. 9 of 2000

[10th May, 2000.]

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 2000-2001 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 2 Act, 2000.

Short title.

3 of 2000.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Railways) Vote on Account Act, 2000] to the sum of sixty-one thousand six hundred and eighty-six crores, seventy-nine lakhs and seventy-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2000-2001, in respect of the services relating to Railways specified in column 2 of the Schedule.

Issue of Rs.  
61686,79,75,000  
out of the  
Consolidated  
Fund of India  
for the  
financial year  
2000-2001.

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

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	Railway Board .....	Rs. 60,88,00,000	..	Rs. 60,88,00,000
2	Miscellaneous Expenditure (General) .....	182,32,00,000	..	182,32,00,000
3	General Superintendence and Services on Railways .....	1453,28,94,000	2,06,000	1453,31,00,000
4	Repairs and Maintenance of Permanent Way and Works .....	2903,49,85,000	5,80,000	2903,55,65,000
5	Repairs and Maintenance of Motive Power .....	1646,13,65,000	75,000	1646,14,40,000
6	Repairs and Maintenance of Carriages and Wagons .....	3143,52,13,000	1,00,000	3143,53,13,000
7	Repairs and Maintenance of Plant and Equipment .....	1573,06,83,000	..	1573,06,83,000
8	Operating Expenses—Rolling Stock and Equipment .....	2669,79,47,000	7,00,000	2669,86,47,000
9	Operating Expenses—Traffic .....	6080,13,45,000	3,00,000	6080,16,45,000
10	Operating Expenses—Fuel .....	6430,00,23,000	2,00,000	6430,02,23,000
11	Staff Welfare and Amenities .....	1171,22,99,000	2,85,000	1171,25,84,000
12	Miscellaneous Working Expenses .....	1437,48,52,000	18,99,83,000	1456,48,35,000
13	Provident Fund, Pension and Other Retirement Benefits .....	5332,33,41,000	83,42,000	5333,16,83,000
14	Appropriation to Funds .....	8623,27,22,000	..	8623,27,22,000
15	Dividend to General Revenues, Repayment of Loans taken from General Revenues and Amortization of Over-Capitalisation .....	615,38,00,000	..	615,38,00,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue .....	38,00,00,000	..	38,00,00,000
	<u>Other Expenditure</u>			
	Capital .....	13431,37,35,000	5,00,00,000	13436,37,35,000
	Railway funds .....	4869,00,00,000	1,00,00,000	4870,00,00,000
	TOTAL	61660,72,04,000	26,07,71,000	61686,79,75,000

# THE FINANCE ACT, 2000

## 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 2.
4. Amendment of section 9.
5. Amendment of section 10.
6. Substitution of new section for section 10A.
7. Substitution of new section for section 10B.
8. Amendment of section 11.
9. Amendment of section 12.
10. Amendment of section 13.
11. Amendment of section 17.
12. Amendment of section 24.
13. Insertion of new section 25B.
14. Amendment of section 32.
15. Amendment of section 33AC.
16. Amendment of section 35.
17. Amendment of section 35D.
18. Amendment of section 36.
19. Amendment of section 43.
20. Amendment of section 43B.
21. Amendment of section 47.
22. Amendment of section 48.
23. Amendment of section 49.
24. Amendment of section 50B.
25. Amendment of section 54EA.
26. Amendment of section 54EB.
27. Insertion of new section 54EC.
28. Amendment of section 54F.
29. Amendment of section 72A.
30. Amendment of section 80E.

**SECTIONS**

31. Amendment of section 80G.
32. Amendment of section 80HHB.
33. Amendment of section 80HHBA.
34. Amendment of section 80HHC.
35. Amendment of section 80HHD.
36. Amendment of section 80HHE.
37. Amendment of section 80HHF.
38. Amendment of section 80-IA.
39. Amendment of section 80-IB.
40. Amendment of section 80L.
41. Amendment of section 80-O.
42. Amendment of section 80R.
43. Amendment of section 80RR.
44. Amendment of section 80RRA.
45. Amendment of section 87.
46. Amendment of section 88.
47. Amendment of section 88B.
48. Insertion of new section 88C.
49. Amendment of section 112.
50. Amendment of section 115JA.
51. Amendment of section 115JAA.
52. Insertion of new section 115JB.
53. Amendment of section 115-O.
54. Amendment of section 115P.
55. Amendment of section 115R.
56. Amendment of section 115S.
57. Insertion of new Chapter XII-F.
58. Amendment of section 139A.
59. Amendment of section 158BFA.
60. Amendment of section 194A.
61. Amendment of section 194L.
62. Amendment of section 220.
63. Amendment of section 245N.
64. Amendment of section 245R.
65. Amendment of section 246.
66. Amendment of section 246A.
67. Amendment of section 249.
68. Amendment of section 254.
69. Amendment of section 267.
70. Amendment of section 275.
71. Amendment of section 285B.

**SECTIONS***Wealth-tax*

72. Amendment of section 23.
73. Amendment of section 24.
74. Amendment of section 31.
75. Amendment of section 34A.
76. Amendment of section 35.

*Interest-tax*

77. Amendment of section 4 of Act 45 of 1974.

**CHAPTER IV****INDIRECT TAXES***Customs*

78. Amendment of section 27A.
79. Amendment of section 28.
80. Amendment of section 28AA.
81. Amendment of section 28AB.
82. Amendment of section 28B.
83. Amendment of section 47.
84. Amendment of section 59.
85. Amendment of section 114A.
86. Amendment of section 127B.
87. Insertion of new section 127MA.
88. Amendment of section 142.
89. Amendment of Act 51 of 1975.
90. Surcharge of customs.

*Excise*

91. Insertion of new section 2A.
92. Amendment of section 3.
93. Amendment of section 3A.
94. Substitution of new section for section 4.
95. Amendment of section 4A.
96. Amendment of section 11.
97. Amendment of section 11A.
98. Amendment of section 11AA.
99. Amendment of section 11AB.
100. Amendment of section 11AC.
101. Amendment of section 11B.
102. Amendment of section 11BB.
103. Amendment of section 11D.
104. Amendment of section 14A.
105. Amendment of section 14AA.
106. Amendment of section 32E.
107. Insertion of new section 32PA.

**SECTIONS**

108. Amendment of section 37.
109. Validation of action taken under section 3 of Act 1 of 1944.
110. Validation of action taken under section 11A of Act 1 of 1944.
111. Validation of exemption given to diplomatic or consular missions with retrospective effect.
112. Validation of the denial of credit of duty paid on high speed diesel oil.
113. Amendment of Act 5 of 1986.
114. Amendment of Act 58 of 1957.
115. Amendment of Act 16 of 1955.

**CHAPTER V****SERVICE TAX**

116. Amendment of Act 32 of 1994.
117. Validation of certain action taken under Service Tax Rules.

**CHAPTER VI****MISCELLANEOUS**

118. Substitution of new section for section 8A of Act 2 of 1899.
119. Amendment of section 9 of Act 74 of 1956.
120. Validation.
121. Amendment of Act 21 of 1998.
122. Amendment of Act 27 of 1999.

**THE FIRST SCHEDULE.**

**THE SECOND SCHEDULE.**

**THE THIRD SCHEDULE.**

**THE FOURTH SCHEDULE.**

**THE FIFTH SCHEDULE.**

**THE SIXTH SCHEDULE.**

## **THE FINANCE ACT, 2000**

**No. 10 OF 2000**

**[12TH MAY, 2000.]**

**An Act to give effect to the financial proposals of the Central Government  
for the financial year 2000-2001.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

### **CHAPTER I**

#### **PRELIMINARY**

- 1. (1) This Act may be called the Finance Act, 2000.**
- (2) Save as otherwise provided in this Act, sections 2 to 77 shall be deemed to have come into force on the 1st day of April, 2000.**

**Short title and  
commencement.**

### **CHAPTER II**

#### **RATES OF INCOME-TAX**

- 2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2000, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-**

**Income-tax.**

tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased,—

43 of 1961.

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

(b) in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in each case in the manner provided therein.

(2) In the cases to which 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 fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty 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 the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty 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 the said Paragraph A, as if the net agricultural income as so increased were the total income;

(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) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of 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:

Provided that the amount of income-tax computed in accordance with the provisions of sections 112 and 113, shall be increased by a surcharge for purposes of the Union or surcharge as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115ACA or section 115B or section 115BB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased,—

(i) in the case of a person other than a company being resident in India, by a surcharge, for purposes of the Union, calculated at the rate of ten per cent. of such income-tax, and

(ii) in the case of a domestic company, by a surcharge calculated at the rate of ten per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115R or section 115U of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased,—

(a) in the case of a person other than a company, by a surcharge for purposes of the Union, calculated at the rate of ~~ten per cent.~~ [eleven per cent.]<sup>2</sup>

(b) in the case of a domestic company, by a surcharge calculated at the rate of ~~ten per cent.~~ [eleven per cent.]<sup>2</sup> [thirteen per cent.]<sup>2</sup>

(5) 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 and shall be increased,—

(a) in the cases to which the provisions of item 1 of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194-I, 194J, 194K, 194L, 196A, 196B, 196C and 196D of the Income-tax Act, the deduction shall be made at the rates specified in those sections and shall be increased,—

(a) in the case of a person other than a company being resident in India, by a surcharge for purposes of the Union, calculated at the rate of ~~ten per cent.~~ [eleven per cent.]<sup>2</sup> [twelve per cent.]<sup>2</sup>

(b) in the case of a domestic company, by a surcharge calculated at the rate of ~~ten per cent.~~ [eleven per cent.]<sup>2</sup> [thirteen per cent.]<sup>2</sup>

(7) In cases in which tax has to be collected under the proviso to section 194B or under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rates specified in Part II of the First Schedule, as the case may be, and shall be increased,—

(a) in the case of a person other than a company being resident in India, by a surcharge for purposes of the Union, calculated at the rate of ~~ten per cent.~~ [eleven per cent.]<sup>2</sup> [twelve per cent.]<sup>2</sup>

(b) in the case of a domestic company, by a surcharge calculated at the rate of ~~ten per cent.~~ [eleven per cent.]<sup>2</sup> [thirteen per cent.]<sup>2</sup>

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be 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 Income-tax Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" 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 charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act 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 in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B 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:

1. Subs. by Act 1 of 2001, S.2

2. Subs. by Act 4 of 2001, S.2 (w.e.f. 3d. 2001)

Provided further that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased by a surcharge for purposes of the Union or surcharge as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased,—

(a) by a surcharge, for purposes of the Union, calculated,—

(i) in the case of a co-operative society, a firm and a local authority, at the rate of ten per cent. of such "advance tax";

(ii) in the case of a person other than a company, a co-operative society, a firm and a local authority—

(A) at the rate of ten per cent. of such "advance tax" where the total income exceeds sixty thousand rupees but does not exceed one lakh fifty thousand rupees; or

(B) at the rate of fifteen per cent. of such "advance tax" where the total income exceeds one lakh fifty thousand rupees; and

(b) by a surcharge calculated at the rate of ten per cent. of such "advance tax" in the case of a domestic company.

(9) In the cases to which 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 fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of 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 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 the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty 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 Paragraph A, as if the net agricultural income were the total income;

(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) 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:

1. subs. by Act, 1 of 2001, s.2

2. subs. by Act, 4 of 2001, s.2 (w.e.f. 3.2.2001)

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, referred to in Paragraph A of Part III, having a total income exceeding sixty thousand rupees, be increased by a surcharge for purposes of the Union—*[twelve per cent]*

(i) at the rate of ~~ten per cent.~~ of such income-tax or, as the case may be, "advance tax" where the total income exceeds sixty thousand rupees but does not exceed one lakh fifty thousand rupees; or *[seventeen per cent]*

(ii) at the rate of ~~fifteen per cent.~~ of such income-tax or, as the case may be, "advance tax" where the total income exceeds one lakh fifty thousand rupees; and

(b) in the case of every artificial juridical person, referred to in Paragraph A of Part III, be increased by a surcharge for purposes of the Union, calculated at the rate of ~~ten 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.

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

(a) "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, 2000, 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;

(b) "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);

(c) "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;

(d) 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 2 of the Income-tax Act,—

(a) in clause (1A), the *Explanation* shall be numbered as *Explanation 1* thereof, and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of April, 2001, namely:—

*"Explanation 2.—For the removal of doubts, it is hereby declared that income derived from any building or land referred to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or sub-clause (b) shall not be agricultural income;"*

(b) in clause (1AA), in *Explanation 4*, for the words, brackets and figures "the conditions specified in sub-clauses (i) to (vii) of this clause, to the extent applicable", the words "such conditions as may be notified in the Official Gazette, by the Central Government" shall be substituted.

Amendment  
of section 2.

J. Subs. by Act. 4 of 2001, s.2 (w.e.f. 3.2.2001)

Amendment  
of section 9.

**4. In section 9 of the Income-tax Act, in sub-section (1), in clause (vi), for *Explanation 3*, the following *Explanation* shall be substituted with effect from the 1st day of April, 2001, namely:—**

*'Explanation 3.—For the purposes of this clause, "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customized electronic data;'*

Amendment  
of section 10.

**5. In section 10 of the Income-tax Act,—**

(a) in clause (10C), with effect from the 1st day of April, 2001,—

(i) for the words "voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, to the extent such amount does not exceed five lakh rupees", occurring after sub-clause (viii), the words "voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees" shall be substituted;

(ii) in the first proviso, the words, brackets and figures "and such schemes in relation to companies referred to in sub-clause (ii) or co-operative societies referred to in sub-clause (v) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf" shall be omitted;

(b) in clause (15),—

(i) in sub-clause (iv),—

(A) in item (g), for the words, brackets and figures "being a company approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36", the words, brackets and figures "being a company eligible for deduction under clause (viii) of sub-section (1) of section 36" shall be substituted;

(B) after *Explanation 1*, the following *Explanation* shall be inserted with effect from the 1st day of April, 2001, namely:—

*'Explanation 1A.—For the purposes of this sub-clause, the expression "interest" shall not include interest paid on delayed payment of loan or on default.'*

(ii) after sub-clause (vi), the following sub-clause shall be inserted with effect from the 1st day of April, 2001, namely:—

"(vii) interest on bonds—

(a) issued by a local authority; and

(b) specified by the Central Government, by notification in the Official Gazette;"

(c) in clause (23), in the third proviso, after item (c), the following item shall be inserted with effect from the 1st day of April, 2001, namely:—

"(d) applies the amount received by way of donations referred to in clause (c) of sub-section (2) of section 80G for purposes of development of infrastructure for games or sports in India or for sponsoring of games and sports in India;"

(d) after clause (23E), the following shall be inserted with effect from the 1st day of April, 2001, namely:—

'(23EA)' any income of such Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax;";

(e) in clause (23FA), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2001, namely:—

"Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 2000;"

(f) after clause (23FA), the following shall be inserted with effect from the 1st day of April, 2001, namely:—

'(23FB)' any income of a venture capital company or venture capital fund set up to raise funds for investment in a venture capital undertaking.

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

(a) "venture capital company" means such company—

(i) which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992, and regulations made thereunder;

(ii) which fulfils the conditions as may be specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf;

(b) "venture capital fund" means such fund—

(i) operating under a trust deed registered under the provisions of the Registration Act, 1908;

(ii) which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992, and regulations made thereunder;

(iii) which fulfils the conditions as may be specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf; and

(c) "venture capital undertaking" means a domestic company—

(i) whose shares are not listed in a recognised stock exchange in India;

(ii) which is engaged in the business for providing services, production or manufacture of an article or thing but does not include such activities or sectors which are specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf;"

15 of 1992.

16 of 1908.

15 of 1992.

(g) in clause (23G), in *Explanation 1*,—

(i) in clause (a), for the words “in the business of developing, maintaining and operating infrastructure facility;”, the following shall be substituted, namely:—

“in the business of—

(i) developing; or

(ii) maintaining and operating; or

(iii) developing, maintaining and operating,

any infrastructure facility;”;

(ii) in clause (b), for the words “in the business of developing, maintaining and operating infrastructure facility;”, the following shall be substituted, namely:—

“in the business of—

(i) developing; or

(ii) maintaining and operating; or

(iii) developing, maintaining and operating,

any infrastructure facility;”;

(iii) in clause (c), in sub-clause (i), for the words “irrigation project, sanitation and sewerage system”, the words “irrigation project, water treatment system, solid waste management system, sanitation and sewerage system” shall be substituted with effect from the 1st day of April, 2001.

**Substitution of new section for section 10A.**

**Special provision in respect of newly established undertakings in free trade zone, etc.**

6. For section 10A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2001, namely:—

**‘10A. (1)** Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to deduction referred to in this sub-section only for the unexpired period of the aforesaid ten consecutive assessment years:

Provided further that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the period of ten consecutive assessment years referred to in this sub-section shall be reckoned from the assessment year relevant to the previous year in which the undertaking was first set up in such free trade zone or export processing zone:

Provided also that the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent. of the total sales shall be deemed to be the profits and gains derived from the export of articles or things or computer software:

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils all the following conditions, namely:

(i) it has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year—

(a) commencing on or after the 1st day of April, 1981, in any free trade zone; or

(b) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park or, as the case may be, software technology park;

(c) commencing on or after the 1st day of April, 2001 in any special economic zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertakings as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

*Explanation 1.*—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

*Explanation 2.*—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee.

(5) The deduction under sub-section (1) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the

assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

(9) Where during any previous year, the ownership or the beneficial interest in the undertaking is transferred by any means, the deduction under sub-section (1) shall not be allowed to the assessee for the assessment year relevant to such previous year and the subsequent years.

*Explanation 1.*—For the purposes of this section, in the case of a company, where on the last day of any previous year, the shares of the company carrying not less than fifty-one per cent. of the voting power are not beneficially held by persons who held the shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year in which the undertaking was set up, the company shall be presumed to have transferred its ownership or the beneficial interest in the undertaking.

*Explanation 2.*—For the purposes of this section,—

(i) “computer software” means—

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature, as may be notified by the Board,

46 of 1973.

which is transmitted or exported from India to any place outside India by any means;

(ii) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder or any other corresponding law for the time being in force;

(iii) "electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(iv) "export turnover" means the consideration in respect of export of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India.

(v) "free trade zone" means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(vi) "relevant assessment year" means any assessment year falling within a period of ten consecutive assessment years referred to in this section;

(vii) "software technology park" means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(viii) "special economic zone" means a zone which the Central Government may, by notification in the Official Gazette, specify as a special economic zone for the purposes of this section.'

7. For section 10B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2001, namely:—

'10B. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent. export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years:

Provided further that the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent. of the total sales shall be deemed to be the profits and gains derived from the export of articles or things or computer software:

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

Substitution of  
new section for  
section 10B.

Special  
provisions in  
respect of newly  
established  
hundred per  
cent. export-  
oriented  
undertakings.

(2) This section applies to any undertaking which fulfils all the following conditions, namely:—

- (i) it manufactures or produces any articles or things or computer software;
- (ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

- (iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

*Explanation 1.*—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

*Explanation 2.*—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee.

(5) The deduction under sub-section (1) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

- (i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment year.

(9) Where during any previous year, the ownership or the beneficial interest in the undertaking is transferred by any means, the deduction under sub-section (1) shall not be allowed to the assessee for the assessment year relevant to such previous year and the subsequent years.

*Explanation 1.*—For the purposes of this section, in the case of a company, where on the last day of any previous year, the shares of the company carrying not less than fifty-one per cent. of the voting power are not beneficially held by persons who held the shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year in which the undertaking was set up, the company shall be presumed to have transferred its ownership or the beneficial interest in the undertaking.

*Explanation 2.*—For the purposes of this section,—

(i) "computer software" means—

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

(ii) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder or any other corresponding law for the time being in force;

(iii) "export turnover" means the consideration in respect of export of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(iv) "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, 1951, and the rules made under that Act;

65 of 1951.

(v) "relevant assessment years" means any assessment years falling within a period of ten consecutive assessment years, referred to in this section'.

**8. In section 11 of the Income-tax Act, in sub-section (5),—**

(a) in clause (vii), the following proviso shall be inserted with effect from the 1st day of April, 2001, namely:—

"Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(A) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(B) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;"

(b) in clauses (viii) and (ix), for the words, brackets and figures "which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36", the words, brackets and figures "which is eligible for deduction under clause (viii) of sub-section (1) of section 36" shall be substituted;

(c) after clause (ix), the following shall be inserted, with effect from the 1st day of April, 2001, namely:—

'(xa) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

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

(a) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(b) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956;

(c) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;"

1 of 1956.

**9. Section 12 of the Income-tax Act shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following shall be inserted with effect from the 1st day of April, 2001, namely:—**

'(2) The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (1) of section 11.

*Explanation.*—For the purposes of this sub-section, the expression "value" shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13.'

10. In section 13 of the Income-tax Act, with effect from the 1st day of April, 2001, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), but without prejudice to the provisions contained in sub-section (2) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3)."

11. In section 17 of the Income-tax Act, in clause (2), with effect from the 1st day of April, 2001,—

(a) in sub-clause (iii) but before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that nothing contained in this sub-clause shall apply to the value of any benefit provided by a company free of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants directly or indirectly under the Employees' Stock Option Plan or Scheme of the said company.";

(b) sub-clause (iiia) shall be omitted.

12. In section 24 of the Income-tax Act, in sub-section (2), in the second proviso, with effect from the 1st day of April, 2001,—

(i) for the figures, letters and words "1st day of April, 2001", the figures, letters and words "1st day of April, 2003" shall be substituted;

(ii) for the words "seventy-five thousand rupees", the words "one lakh rupees" shall be substituted.

13. After section 25A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2001, namely:—

#### '25B. Where the assessee—

(a) is the owner of any property consisting of any buildings or lands appurtenant thereto which has been let to a tenant; and

(b) has received any amount, by way of arrears of rent from such property, not charged to income-tax for any previous year,

the amount so received, after deducting a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property, shall be deemed to be the income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is received, whether the assessee is the owner of that property in that year or not.'

14. In section 32 of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2001,—

(a) the first proviso shall be omitted;

(b) in the existing second proviso, for the words "Provided further that", the words "Provided that" shall be substituted.

Amendment  
of section 13.

Amendment  
of section 17.

Amendment of  
section 24.

Insertion of  
new section  
25B.

Special  
provision for  
arrears of rent  
received.

Amendment of  
section 32.

Amendment of  
section 33AC.

**15.** In section 33AC of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2001, namely:—

'Provided further that for five assessment years commencing on or after the 1st day of April, 2001 and ending before the 1st day of April, 2006, the provisions of this sub-section shall have effect as if for the words "an amount not exceeding fifty per cent. of profits", the words "an amount not exceeding the profits" had been substituted.'

Amendment of  
section 35.

**16.** In section 35 of the Income-tax Act, in sub-section (2AB), in clause (1), for the words "a sum equal to one and one-fourth times of the expenditure", the words "a sum equal to one and one-half times of the expenditure" shall be substituted with effect from the 1st day of April, 2001.

Amendment of  
section 35D.

**17.** In section 35D of the Income-tax Act, in sub-section (3), in the *Explanation*, in clause (c), in sub-clause (i), for the words, brackets and figures "which is for the time being approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36", the words, brackets and figures "which is eligible for deduction under clause (viii) of sub-section (1) of section 36" shall be substituted.

Amendment of  
section 36.

**18.** In section 36 of the Income-tax Act, in sub-section (1), in clause (viiia), in the *Explanation*, in clause (v), for the words, brackets and figures "approved by the Central Government under clause (viii) of this sub-section", the words, brackets and figures "eligible for deduction under clause (viii) of this sub-section" shall be substituted.

Amendment of  
section 43.

**19.** In section 43 of the Income-tax Act, in clause (6),—

(a) in *Explanation* 2A, for the words "book value of the assets", the words "written down value of the assets" shall be substituted;

(b) in *Explanation* 2B,—

(i) for the words "value of the assets as appearing in the books of account", the words "written down value of the transferred assets as appearing in the books of account" shall be substituted;

(ii) the proviso shall be omitted.

Amendment of  
section 43B.

**20.** In section 43B of the Income-tax Act, in *Explanation* 4, in clause (c), for the words, brackets and figures "approved by the Central Government under clause (viii) of sub-section (1) of section 36", the words, brackets and figures "eligible for deduction under clause (viii) of sub-section (1) of section 36" shall be substituted.

Amendment of  
section 47.

**21.** In section 47 of the Income-tax Act,—

(a) after clause (iii), the following proviso shall be inserted with effect from the 1st day of April, 2001, namely:—

"Provided that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under the Employees' Stock Option Plan or Scheme;"

(b) in clause (v), in sub-clause (a), for the words "at least seventy-five per cent. of the shareholders", the words "the shareholders holding not less than three-fourths in value of the shares" shall be substituted.

Amendment of  
section 48.

**22.** In section 48 of the Income-tax Act,—

(i) after the third proviso but before the *Explanation*, the following shall be inserted with effect from the 1st day of April, 2001, namely:—

"Provided also that where shares, debentures or warrants referred to in the proviso to clause (iii) of section 47 are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of this section.";

(ii) in the *Explanation*, for clause (v), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1993, namely:—

(v) "Cost Inflation Index", in relation to a previous year, means such Index as the Central Government may, having regard to seventy-five per cent. of average rise in the Consumer Price Index for urban non-manual employees for the immediately preceding previous year to such previous year, by notification in the Official Gazette, specify in this behalf.'

23. In section 49 of the Income-tax Act, sub-section (2B) shall be omitted with effect from the 1st day of April, 2001.

Amendment of section 49.

24. In section 50B of the Income-tax Act, for the *Explanation*, the following *Explanations* shall be substituted, namely:—

*Explanation 1.*—For the purposes of this section, "net worth" shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account;

Provided that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth.

*Explanation 2.*—For computing the net worth, the aggregate value of total assets shall be,—

(a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (C) of item (i) of sub-clause (c) of clause (6) of section 43; and

(b) in the case of other assets, the book value of such assets.'

25. In section 54EA of the Income-tax Act, in sub-section (1), after the words "transfer of a long-term capital asset", the words, figures and letters "before the 1st day of April, 2000" shall be inserted with effect from the 1st day of April, 2001.

Amendment of section 54EA.

26. In section 54EB of the Income-tax Act, in sub-section (1), after the words "transfer of a long-term capital asset", the words, figures and letters "before the 1st day of April, 2000" shall be inserted with effect from the 1st day of April, 2001.

Amendment of section 54EB.

27. After section 54EB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2001, namely:—

**54EC. (1)** Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45.

**(2)** Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified

Insertion of new section 54EC.  
Capital gain not to be charged on investment in certain bonds.

asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money.

*Explanation.*—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.

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

(a) "cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;

(b) "long-term specified asset" means any bond redeemable after three years issued, on or after the 1st day of April, 2000, by the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 or by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988.'

61 of 1981.

68 of 1988.

Amendment of section 54F. 28. In section 54F of the Income-tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2001, namely:

'Provided that nothing contained in this sub-section shall apply where—

(a) the assessee,—

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property".

Amendment of section 72A. 29. In section 72A of the Income-tax Act, in sub-section (2), in clause (i), for the words "value of assets", the words "book value of fixed assets" shall be substituted.

Amendment of section 80E. 30. In section 80E of the Income-tax Act, in sub-section (1), in the proviso, for the words "twenty-five thousand rupees", the words "forty thousand rupees" shall be substituted with effect from the 1st day of April, 2001.

Amendment of section 80G. 31. In section 80G of the Income-tax Act, with effect from the 1st day of April, 2001,—

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letter "sub-clause (vii) of clause (a)", the words, brackets and letter "or in clause (c)" shall be inserted;

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

“(c) any sums paid by the assessee, being a company, in the previous year as donations to the Indian Olympic Association or to any other association or institution as notified by the Central Government under clause (23) of section 10 for—

(i) the development of infrastructure for sports and games; or

(ii) the sponsorship of sports and games,

in India.”;

(c) in sub-section (4), for the word, brackets and letter “clause (b)”, the words, brackets and letters “clauses (b) and (c)” shall be substituted.

32. In section 80HHB of the Income-tax Act, with effect from the 1st day of April, 2001,—

(a) in sub-section (1), for the words “a deduction from such profits and gains of an amount equal to fifty per cent. thereof”, the following shall be substituted, namely:—

“a deduction from such profits and gains of an amount equal to—

(i) forty per cent. thereof for an assessment year beginning on the 1st day of April, 2001;

(ii) thirty per cent. thereof for an assessment year beginning on the 1st day of April, 2002;

(iii) twenty per cent. thereof for an assessment year beginning on the 1st day of April, 2003;

(iv) ten per cent. thereof for an assessment year beginning on the 1st day of April, 2004,

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year”;

(b) in sub-section (3),—

(i) in clauses (ii) and (iii), for the words, brackets and figure “fifty per cent. of the profits and gains referred to in sub-section (1)”, the words, brackets and figure “such percentage of the profits and gains as is referred to in sub-section (1) in relation to the relevant assessment year” shall be substituted;

(ii) in the proviso, for the words, brackets and figure “fifty per cent. of the profits and gains referred to in sub-section (1)”, the words, brackets and figure “such percentage of the profits and gains as is referred to in sub-section (1) in relation to the relevant assessment year” shall be substituted.

33. In section 80HHBA of the Income-tax Act, with effect from the 1st day of April, 2001,—

(a) in sub-section (1), for the words “a deduction from such profits and gains of an amount equal to fifty per cent. thereof”, the following shall be substituted, namely:—

“a deduction from such profits and gains of an amount equal to—

(i) forty per cent. thereof for an assessment year beginning on the 1st day of April, 2001;

(ii) thirty per cent. thereof for an assessment year beginning on the 1st day of April, 2002;

(iii) twenty per cent. thereof for an assessment year beginning on the 1st day of April, 2003;

Amendment  
of section  
80HBB.

Amendment of  
section  
80HHBA.

(iv) ten per cent. thereof for an assessment year beginning on the 1st day of April, 2004,

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year";

(b) in sub-section (2),—

(i) in clause (ii), for the words, brackets and figure "fifty per cent. of the profits and gains referred to in sub-section (1)", the words, brackets and figure "such percentage of the profits and gains as is referred to in sub-section (1) in relation to the relevant assessment year" shall be substituted;

(ii) in the proviso, for the words, brackets and figure "fifty per cent. of the profits and gains referred to in sub-section (1)", the words, brackets and figure "such percentage of the profits and gains as is referred to in sub-section (1) in relation to the relevant assessment year" shall be substituted.

**34. In section 80HHC of the Income-tax Act, with effect from the 1st day of April, 2001,—**

(a) in sub-section (1), for the words "a deduction of the profits", the words, brackets, figure and letter "a deduction to the extent of profits, referred to in sub-section (1B)," shall be substituted;

(b) in sub-section (1A), for the words "a deduction of the profits", the words, brackets, figure and letter "a deduction to the extent of profits, referred to in sub-section (1B)," shall be substituted;

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

"(1B) For the purposes of sub-sections (1) and (1A), the extent of deduction of the profits shall be an amount equal to—

(i) eighty per cent. thereof for an assessment year beginning on the 1st day of April, 2001;

(ii) sixty per cent. thereof for an assessment year beginning on the 1st day of April, 2002;

(iii) forty per cent. thereof for an assessment year beginning on the 1st day of April, 2003;

(iv) twenty per cent. thereof for an assessment year beginning on the 1st day of April, 2004,

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year".

**35. In section 80HHD of the Income-tax Act, in sub-section (1), for the portion beginning with the words "in computing the total income of the assessee, a deduction of a sum equal to the aggregate of—" and ending with the words, brackets and figure "manner laid down in sub-section (4)", the following shall be substituted with effect from the 1st day of April, 2001, namely:—**

"in computing the total income of the assessee—

(a) for an assessment year beginning on the 1st day of April, 2001, a deduction of a sum equal to the aggregate of—

(i) forty per cent. of the profits derived by him from services provided to foreign tourists; and

(ii) so much of the amount not exceeding forty per cent. of the profits referred to in sub-clause (i) as is debited to the profit and loss

Amendment  
of section  
80HHC.

Amendment  
of section  
80HHD.

account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4);

(b) for an assessment year beginning on the 1st day of April, 2002, a deduction of a sum equal to the aggregate of—

(i) thirty per cent. of the profits derived by him from services provided to foreign tourists; and

(ii) so much of the amount not exceeding thirty per cent. of the profits referred to in sub-clause (i) as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4);

(c) for an assessment year beginning on the 1st day of April, 2003, a deduction of a sum equal to the aggregate of—

(i) twenty per cent. of the profits derived by him from services provided to foreign tourists; and

(ii) so much of the amount not exceeding twenty per cent. of the profits referred to in sub-clause (i) as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4);

(d) for an assessment year beginning on the 1st day of April, 2004, a deduction of a sum equal to the aggregate of—

(i) ten per cent. of the profits derived by him from services provided to foreign tourists; and

(ii) so much of the amount not exceeding ten per cent. of the profits referred to in sub-clause (i) as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4),

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year".

**36.** In section 80HHE of the Income-tax Act, with effect from the 1st day of April, 2001,—

(a) in sub-section (1), for the words "a deduction of the profits", the words, brackets, figure and letter "a deduction to the extent of the profits, referred to in sub-section (1B)," shall be substituted;

(b) in sub-section (1A), after the words "in respect of which the certificate has been issued by the said company", the words, brackets, figure and letter "to such extent and for such years as specified in sub-section (1B)," shall be inserted;

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

"(1B) For the purposes of sub-sections (1) and (1A), the extent of deduction of profits shall be an amount equal to—

Amendment  
of section  
80HHE.

(i) eighty per cent. of such profits for an assessment year beginning on the 1st day of April, 2001;

(ii) sixty per cent. of such profits for an assessment year beginning on the 1st day of April, 2002;

(iii) forty per cent. of such profits for an assessment year beginning on the 1st day of April, 2003;

(iv) twenty per cent. of such profits for an assessment year beginning on the 1st day of April, 2004,

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year.”;

(d) in the *Explanation* below sub-section (5), for item (b), the following shall be substituted; namely:—

(b) “computer software” means,—

(i) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(ii) any customised electronic data or any product or service of similar nature as may be notified by the Board,

which is transmitted or exported from India to a place outside India by any means;’.

**37. In section 80HHF of the Income-tax Act,—**

(a) in sub-section (1),—

(i) after the words “an Indian company”, the words and brackets “or a person (other than a company) resident in India” shall be inserted;

(ii) for the words “a deduction of the profits”, the words, brackets, figure and letter “a deduction to the extent of profits, referred to in sub-section (1A),” shall be substituted with effect from the 1st day of April, 2001;

(b) after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of April, 2001, namely:—

“(1A) For the purposes of sub-section (1), the extent of deduction of profits shall be an amount equal to—

(i) eighty per cent. of such profits for an assessment year beginning on the 1st day of April, 2001;

(ii) sixty per cent. of such profits for an assessment year beginning on the 1st day of April, 2002;

(iii) forty per cent. of such profits for an assessment year beginning on the 1st day of April, 2003;

(iv) twenty per cent. of such profits for an assessment year beginning on the 1st day of April, 2004,

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year.”.

**38. In section 80-IA of the Income-tax Act,—**

(a) in sub-section (3), for the words “any industrial undertaking”, the words, brackets and figures “an industrial undertaking referred to in clause (iv) of sub-section (4)” shall be substituted;

(b) in sub-section (4), in clause (i), in the *Explanation*, for clause (c), the

following clause shall be substituted with effect from the 1st day of April, 2001, namely:—

“(c) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;”.

**39. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2001,—**

(a) in sub-section (3), in clause (ii), for the figures, letters and words “31st day of March, 2000”, the figures, letters and words “31st day of March, 2002” shall be substituted;

(b) in sub-section (4), in the first proviso, for the figures, letters and words “31st day of March, 2000”, the figures, letters and words “31st day of March, 2002” shall be substituted;

(c) in sub-section (5), in the second proviso to clauses (i) and (ii), for the figures, letters and words “31st day of March, 2000”, the figures, letters and words “31st day of March, 2002” shall be substituted;

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

“(8A) The amount of deduction in the case of any company carrying on scientific research and development shall be hundred per cent. of the profits and gains of such business for a period of ten consecutive assessment years, beginning from the initial assessment year, if such company—

(i) is registered in India;

(ii) has its main object the scientific and industrial research and development;

(iii) is for the time being approved by the prescribed authority at any time after the 31st day of March, 2000 but before the 1st day of April, 2003;

(iv) fulfils such other conditions as may be prescribed.”;

(e) in sub-section (10),—

(i) in the opening portion, for the words “approved by a local authority”, the words, letters and figures “approved before the 31st day of March, 2001 by a local authority” shall be substituted;

(ii) in clause (a), for the figures, letters and words “31st day of March, 2001”, the figures, letters and words “31st day of March, 2003” shall be substituted.

**40. In section 80L of the Income-tax Act, in sub-section (1),—**

(a) in clause (vii),—

(i) after the words “industrial development in India”, the words, brackets and figures “and which is eligible for deduction under clause (viii) of sub-section (1) of section 36” shall be inserted;

(ii) the proviso shall be omitted;

(b) in clause (x), for the words “for residential purposes”, the words, brackets and figures “for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36” shall be substituted.

**41. In section 80-O of the Income-tax Act, for the portion beginning with the words “a deduction of an amount” and ending with the words “total income of the assessee”, the following shall be substituted with effect from the 1st day of April, 2001, namely:—**

Amendment of  
section 80-IB.

Amendment of  
section 80L.

Amendment of  
section 80-O.

**"a deduction of an amount equal to—**

- (i) forty per cent. for an assessment year beginning on the 1st day of April, 2001;
- (ii) thirty per cent. for an assessment year beginning on the 1st day of April, 2002;
- (iii) twenty per cent. for an assessment year beginning on the 1st day of April, 2003;
- (iv) ten per cent. for an assessment year beginning on the 1st day of April, 2004,

of the income so received in, or brought into, India, in computing the total income of the assessee and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year".

Amendment  
of section  
80R.

**42. In section 80R of the Income-tax Act, for the portion beginning with the words "a deduction from such remuneration of an amount" and ending with the words "competent authority may allow in this behalf", the following shall be substituted with effect from the 1st day of April, 2001, namely:—**

**"a deduction from such remuneration of an amount equal to—**

- (i) sixty per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2001;
- (ii) forty-five per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2002;
- (iii) thirty per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2003;
- (iv) fifteen per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2004,

as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year".

Amendment of  
section 80RR.

**43. In section 80RR of the Income-tax Act, for the portion beginning with the words "a deduction from such income of an amount" and ending with the words "competent authority may allow in this behalf", the following shall be substituted with effect from the 1st day of April, 2001, namely:—**

**"a deduction from such income of an amount equal to—**

- (i) sixty per cent. of such income for an assessment year beginning on the 1st day of April, 2001;
- (ii) forty-five per cent. of such income for an assessment year beginning on the 1st day of April, 2002;
- (iii) thirty per cent. of such income for an assessment year beginning on the 1st day of April, 2003;
- (iv) fifteen per cent. of such income for an assessment year beginning on the 1st day of April, 2004,

as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year".

Amendment  
of section  
80RRA.

**44.** In section 80RRA of the Income-tax Act, for the portion beginning with the words "a deduction from such remuneration" and ending with the words "authority may allow in this behalf", the following shall be substituted with effect from the 1st day of April, 2001, namely:—

"a deduction from such remuneration of an amount equal to—

(i) sixty per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2001;

(ii) forty-five per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2002;

(iii) thirty per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2003;

(iv) fifteen per cent. of such remuneration for an assessment year beginning on the 1st day of April, 2004,

as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year".

**45.** In section 87 of the Income-tax Act, with effect from the 1st day of April, 2001,—

(a) in sub-section (1), for the word, figures and letter "and 88B", the figures, letters and word ", 88B and 88C" shall be substituted;

(b) in sub-section (2), after the words, figures and letter "or section 88B", the words, figures and letter "or section 88C" shall be inserted.

**46.** In section 88 of the Income-tax Act,—

(a) in sub-section (2), in clause (xv), in sub-clause (c), in item (5), for the words, brackets and figures "which is approved for the purposes of clause (viii) of sub-section (1) of section 36", the words, brackets and figures "which is eligible for deduction under clause (viii) of sub-section (1) of section 36" shall be substituted;

(b) in sub-section (5), for the words "ten thousand rupees", at both the places where they occur, the words "twenty thousand rupees" shall be substituted with effect from the 1st day of April, 2001;

(c) in sub-section (6), in clause (ii), for the words "fourteen thousand rupees", the words "sixteen thousand rupees" shall be substituted with effect from the 1st day of April, 2001.

**47.** In section 88B of the Income-tax Act, for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 2001.

**48.** After section 88B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2001, namely:—

"88C. An assessee,—

(a) being a woman resident in India; and

(b) below the age of sixty-five years, at any time during the previous year,

shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on her total income, with which she is

Amendment  
of section  
87.

Amendment  
of section 88.

Amendment of  
section 88B.

Insertion of new  
section 88C.

Rebate of  
income-tax in  
case of women  
below sixty-  
five years.

chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax or an amount of five thousand rupees, whichever is less.”.

Amendment  
of section 112.

**49. In section 112 of the Income-tax Act, in sub-section (1),—**

- (a) in the proviso, for the words “being listed securities”, the words “being listed securities or unit” shall be substituted;
- (b) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

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

- (a) “listed securities” means the securities—

(i) as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956; and

(ii) listed in any recognised stock exchange in India;

(b) “unit” shall have the meaning assigned to it in clause (b) of *Explanation* to section 115AB.’.

32 of 1956.

Amendment  
of section  
115JA.

**50. In section 115JA of the Income-tax Act, with effect from the 1st day of April, 2001,—**

(i) in sub-section (1), after the words, figures and letters “the 1st day of April, 1997”, the words, figures and letters “but before the 1st day of April, 2001” shall be inserted;

(ii) in sub-section (2), in the *Explanation*, in item (i) below clause (f), in the proviso, after the words, figures and letters “the 1st day of April, 1997”, the words, figures and letters “but ending before the 1st day of April, 2001” shall be inserted.

Amendment  
of section  
115JAA.

**51. In section 115JAA of the Income-tax Act, in sub-sections (4) and (5), after the word, figures and letters “section 115JA”, the words, figures and letters “or section 115JB, as the case may be” shall be inserted with effect from the 1st day of April, 2001.**

Insertion of  
new section  
115JB.

**52. After section 115JAA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2001, namely:—**

Special  
provision for  
payment of  
tax by certain  
companies.

‘115JB. (1) Notwithstanding anything contained in any other provision of this Act, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2001, is less than seven and one-half per cent. of its book profit, the tax payable for the relevant previous year shall be deemed to be seven and one-half per cent. of such book profit.

(2) Every assessee, being a company, shall, for the purposes of this section, prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956:

1 of 1956.

Provided that while preparing the annual accounts including profit and loss account,—

(i) the accounting policies;

(ii) the accounting standards adopted for preparing such accounts including profit and loss account;

(iii) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including profit and loss account and laid before the company at its annual general meeting in accordance with the provisions of section 210 of the Companies Act, 1956:

1 of 1956.

1 of 1956.

Provided further that where the company has adopted or adopts the financial year under the Companies Act, 1956, which is different from the previous year under this Act,—

(i) the accounting policies;

(ii) the accounting standards adopted for preparing such accounts including profit and loss account;

(iii) the method and rates adopted for calculating the depreciation,

shall correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including profit and loss account for such financial year or part of such financial year falling within the relevant previous year.

*Explanation.*—For the purposes of this section, “book profit” means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (2), as increased by—

(a) the amount of income-tax paid or payable, and the provision therefor; or

(b) the amounts carried to any reserves, by whatever name called; or

(c) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(d) the amount by way of provision for losses of subsidiary companies; or

(e) the amount or amounts of dividends paid or proposed; or

(f) the amount or amounts of expenditure relatable to any income to which section 10 or section 10A or section 10B or section 11 or section 12 apply,

if any amount referred to in clauses (a) to (f) is debited to the profit and loss account, and as reduced by—

(i) the amount withdrawn from any reserves or provisions if any such amount is credited to the profit and loss account:

Provided that, where this section is applicable to an assessee in any previous year (including the relevant previous year), the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 2001 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation*; or

(ii) the amount of income to which any of the provisions of section 10 or section 10A or section 10B or section 11 or section 12 apply, if any such amount is credited to the profit and loss account; or

(iii) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.

*Explanation.*—For the purposes of this clause, the loss shall not include depreciation; or

(iv) the amount of profits eligible for deduction under section 80HHC, computed under clause (a) or clause (b) or clause (c) of sub-section (3) or sub-section (3A), as the case may be, of that section, and subject to the conditions specified in that section; or

(v) the amount of profits eligible for deduction under section 80HHE

computed under sub-section (3) or sub-section (3A), as the case may be, of that section, and subject to the conditions specified in that section; or

(vi) the amount of profits eligible for deduction under section 80HHF computed under sub-section (3) of that section, and subject to the conditions specified in that section; or

(vii) the amount of profits of sick industrial company for the assessment year commencing on and from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

1 of 1986.

*Explanation.*—For the purposes of this clause, “net worth” shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

1 of 1986.

(3) Nothing contained in sub-section (1) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (2) of section 32 or sub-section (3) of section 32A or clause (ii) of sub-section (1) of section 72 or section 73 or section 74 or sub-section (3) of section 74A.

(4) Every company to which this section applies, shall furnish a report in the prescribed form from an accountant as defined in the *Explanation* below sub-section (2) of section 288, certifying that the book profit has been computed in accordance with the provisions of this section along with the return of income filed under sub-section (1) of section 139 or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142.

(5) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.’

Amendment  
of section  
115-O.

53. In section 115-O of the Income-tax Act, in sub-section (1), for the words “ten per cent.”, the words “twenty per cent.” shall be substituted with effect from the 1st day of June, 2000.

Amendment  
of section  
115P.

54. In section 115P of the Income-tax Act, for the words “two per cent.”, the words “one and one-half per cent.” shall be substituted with effect from the 1st day of June, 2000.

Amendment  
of section  
115R.

55. In section 115R of the Income-tax Act, with effect from the 1st day of June, 2000,—

(a) in sub-sections (1) and (2), for the words “ten per cent.”, the words “twenty per cent.” shall be substituted;

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

“(3A) The person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, shall on or before the 15th day of September in each year, furnish to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving the details of the amount of income distributed to unit holders during the previous year, the tax paid thereon and such other relevant details as may be prescribed.”

Amendment  
of section  
115S.

56. In section 115S of the Income-tax Act, for the words “two per cent.”, the words “one and one-half per cent.” shall be substituted with effect from the 1st day of June, 2000.

**57.** After Chapter XII-E of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2001, namely:—

Insertion of new Chapter XII-F.

### 'CHAPTER XII-F'

#### SPECIAL PROVISIONS RELATING TO TAX ON INCOME RECEIVED FROM VENTURE CAPITAL COMPANIES AND VENTURE CAPITAL FUNDS

**115U.** (1) Notwithstanding anything contained in any other provisions of this Act, any income received by a person out of investments made in a venture capital company or venture capital fund shall be chargeable to income-tax in the same manner as if it were the income received by such person had he made investments directly in the venture capital undertaking.

Tax on income in certain cases.

(2) The person responsible for making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time as may be prescribed, to the person receiving such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid during the previous year and such other relevant details as may be prescribed.

(3) The income paid by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person receiving such income as it had been received by, or had accrued to, the venture capital company or the venture capital fund, as the case may be, during the previous year.

(4) The provisions of Chapter XII-D or Chapter XII-E or Chapter XVII-B shall not apply to the income paid by a venture capital company or venture capital fund under this Chapter.

*Explanation.*—For the purposes of this Chapter, "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (23FB) of section 10.'

**58.** In section 139A of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of June, 2000, namely:—

Amendment of section 139A.

"(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification in the Official Gazette, specify, any class or classes of persons by whom tax is payable under this Act or any tax or duty is payable under any other law for the time being in force including importers and exporters whether any tax is payable by them or not and such persons shall, within such time as mentioned in that notification, apply to the Assessing Officer for the allotment of a permanent account number."

**59.** In section 158BFA of the Income-tax Act, in sub-section (3), in clause (c), after the words, brackets and figures "the Commissioner (Appeals) under section 246", the words, figures and letter "or section 246A" shall be inserted with effect from the 1st day of June, 2000.

Amendment of section 158BFA.

**60.** In section 194A of the Income-tax Act, in sub-section (3), in clause (i), —

Amendment of section 194A.

(a) for the words "two thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of June, 2000;

(b) in the proviso, in clause (c), for the words "for residential purposes", the words, brackets and figures "for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36" shall be substituted.

**61.** In section 194L of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2000, namely:—

Amendment of section 194L.

"Provided further that no deduction shall be made under this section from any payment made on or after the 1st day of June, 2000."

Amendment  
of section 220.

62. In section 220 of the Income-tax Act, in sub-section (6), after the words and figures "under section 246", the words, figures and letter "or section 246A" shall be inserted with effect from the 1st day of June, 2000.

Amendment  
of section  
245N.

63. In section 245N of the Income-tax Act, for clauses (a) and (b), the following clauses shall be substituted with effect from the 1st day of June, 2000, namely:—

(a) "advance ruling" means—

(i) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(ii) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with a non-resident,

and such determination shall include the determination of any question of law or of fact specified in the application;

(iii) a determination or decision by the Authority in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application;

(b) "applicant" means any person who—

(i) is a non-resident referred to in sub-clause (i) of clause (a); or

(ii) is a resident referred to in sub-clause (ii) of clause (a); or

(iii) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf; and

(iv) makes an application under sub-section (1) of section 245Q;".

Amendment  
of section  
245R.

64. In section 245R of the Income-tax Act, in sub-section (2), for the first proviso, the following proviso shall be substituted with effect from the 1st day of June, 2000, namely:—

"Provided that the Authority shall not allow the application where the question raised in the application—

(i) is already pending before any income-tax authority or Appellate Tribunal [except in the case of a resident applicant falling in sub-clause (iii) of clause (b) of section 245N] or any court;

(ii) involves determination of fair market value of any property;

(iii) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax [except in the case of a resident applicant falling in sub-clause (iii) of clause (b) of section 245N]:".

Amendment  
of section 246.

65. In section 246 of the Income-tax Act, with effect from the 1st day of June, 2000, —

(a) in sub-section (1), after the words and brackets "Deputy Commissioner (Appeals)", the words, figures and letters "before the 1st day of June, 2000" shall be inserted;

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

**"(1A)** Notwithstanding anything contained in sub-section (1), every appeal filed, on or after the 1st day of October, 1998 but before the 1st day of June, 2000, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day.";

(c) in sub-section (2), after the words and brackets "Commissioner (Appeals)", the words, figures and letters "before the 1st day of June, 2000" shall be inserted.

**66.** In section 246A of the Income-tax Act, with effect from the 1st day of June, 2000,—

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

"(ha) an order made under section 201;";

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

**"(1A)** Every appeal filed by an assessee in default against an order under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 shall be deemed to have been filed under this section."

**67.** In section 249 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of June, 2000, namely:—

**"(2A)** Notwithstanding anything contained in sub-section (2), where an order has been made under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 and the assessee in default has not presented any appeal within the time specified in that sub-section, he may present such appeal before the 1st day of July, 2000."

**68.** In section 254 of the Income-tax Act, in sub-section (2A), after the words, brackets and figure "under sub-section (1)", the words, brackets and figure "or sub-section (2)" shall be inserted with effect from the 1st day of June, 2000.

**69.** In section 267 of the Income-tax Act, after the words and figures "an appeal under section 246", the words, figures and letter "or section 246A" shall be inserted with effect from the 1st day of June, 2000.

**70.** In section 275 of the Income-tax Act, in sub-section (1), in clause (a), after the words, brackets and figures "Commissioner (Appeals) under section 246", the words, figures and letter "or section 246A" shall be inserted with effect from the 1st day of June, 2000.

**71.** In section 285B of the Income-tax Act, for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted with effect from the 1st day of April, 2001.

#### *Wealth-tax*

27 of 1957.

**72.** In section 23 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), with effect from the 1st day of June, 2000,—

(a) in sub-section (1), after the words and brackets "Deputy Commissioner (Appeals)", the words, figures and letters "before the 1st day of June, 2000," shall be inserted;

(b) in sub-section (1A), after the words and brackets "Commissioner (Appeals)", the words, figures and letters "before the 1st day of June, 2000," shall be inserted;

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

**"(1AA)** Notwithstanding anything contained in sub-section (1), every

Amendment  
of section  
246A.

Amendment  
of section 249.

Amendment  
of section 254.

Amendment  
of section 267.

Amendment  
of section 275.

Amendment  
of section  
285B.

Amendment  
of section 23.

Amendment of section 24.

appeal filed, on or after the 1st day of October, 1998, but before the 1st day of June, 2000, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day".

**73.** In section 24 of the Wealth-tax Act, in sub-section (5A), after the words, brackets and figure "under sub-section (1)", the words, brackets and figure "or sub-section (2)" shall be inserted with effect from the 1st day of June, 2000.

**74.** In section 31 of the Wealth-tax Act, with effect from the 1st day of June, 2000,—

(a) in sub-section (2), in the first proviso, after the words and figures "where as a result of an order under section 23," the words, figures and letter "or section 23A," shall be inserted;

(b) in sub-section (6), after the words and figures "an appeal under section 23", the words, figures and letter "or section 23A" shall be inserted.

**75.** In section 34A of the Wealth-tax Act, in sub-section (4B), in clause (c), after the words and figures "or section 23", the words, figures and letter "or section 23A" shall be inserted with effect from the 1st day of June, 2000.

**76.** In section 35 of the Wealth-tax Act, in sub-section (1), in clause (c), after the words and figures "under section 23", the words, figures and letter "or section 23A" shall be inserted with effect from the 1st day of June, 2000.

#### *Interest-tax*

Amendment of section 4 of Act 45 of 1974.

**77.** In the Interest-tax Act, 1974, in section 4, after sub-section (2), the following sub-section shall be inserted, with effect from the 1st day of April, 2001, namely:—

"(3) Notwithstanding anything contained in sub-sections (1) and (2), no interest-tax shall be charged in respect of any chargeable interest accruing or arising after the 31st day of March, 2000.".

#### CHAPTER IV

##### INDIRECT TAXES

###### *Customs*

Amendment of section 27A.

**78.** In the Customs Act, 1962,(hereinafter referred to as the Customs Act), in section 27A, for the words "by the Board", the words "by the Central Government, by notification in the Official Gazette," shall be substituted.

Amendment of section 28.

**79.** In section 28 of the Customs Act, in sub-section (1), after the proviso and before the *Explanation*, the following provisos shall be inserted, namely:—

"Provided further that where the amount of duty which has not been levied or has been short-levied or erroneously refunded or the interest payable has not been paid, part paid or erroneously refunded is one crore rupees or less, a notice under this sub-section shall be served by the Commissioner of Customs or with his prior approval by any officer subordinate to him:

Provided also that where the amount of duty which has not been levied or has been short-levied or erroneously refunded or the interest payable thereon has not been paid, part paid or erroneously refunded is more than one crore rupees, no notice under this sub-section shall be served except with the prior approval of the Chief Commissioner of Customs.".

Amendment of  
section 28AA.

**80.** In section 28AA of the Customs Act, for the words "at such rate not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board", the words "at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette," shall be substituted.

Amendment of  
section 28AB.

**81.** In section 28AB of the Customs Act, in sub-section (1), for the words "at such rate not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board", the words "at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette," shall be substituted.

Amendment of  
section 28B.

**82.** In section 28B of the Customs Act, with effect from the 20th day of September, 1991,—

(a) in sub-section (1), for the words "every person who has collected any amount from the buyer of any goods", the words "every person who is liable to pay duty under this Act and has collected any amount in excess of the duty assessed or determined or paid on any goods under this Act from the buyer of such goods" shall be substituted and shall be deemed to have been substituted;

(b) for sub-section (2), the following sub-sections shall be substituted and shall be deemed to have been substituted, namely:—

"(2) Where any amount is required to be paid to the credit of the Central Government under sub-section (1) and which has not been so paid, the proper officer may serve on the person liable to pay such amount, a notice requiring him to show cause why he should not pay the amount, as specified in the notice to the credit of the Central Government.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(4) The amount paid to the credit of the Central Government under sub-section (1) or sub-section (3) shall be adjusted against the duty payable by the person on finalisation of assessment or any other proceeding for determination of the duty relating to the goods referred to in sub-section (1).

(5) Where any surplus is left after the adjustment made under sub-section (4), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 27 and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Assistant Commissioner of Customs for the refund of such surplus amount.”

Amendment of  
section 47.

**83.** In section 47 of the Customs Act, in sub-section (2), for the words "at such rate, not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board", the words "at such rate, not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette," shall be substituted.

Amendment of  
section 59.

**84.** In section 59 of the Customs Act, in sub-section (1), in clause (b), in sub-clause (ii), for the words "at the rate of six per cent. per annum or such other rate as is for the time being fixed by the Board", the words "at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette," shall be substituted.

Amendment of  
section 114A.

**85.** In section 114A of the Customs Act, for the first and second provisos, the following shall be substituted, namely:—

“Provided that where such duty or interest, as the case may be, as determined under sub-section (2) of section 28, and the interest payable thereon under section 28AB, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in a case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AB, and twenty-five per cent. of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

*Explanation.*—For the removal of doubts, it is hereby declared that—

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (2) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.”

Amendment of  
section 127B.

**86.** In section 127B of the Customs Act, in sub-section (1), in the first proviso, in clause (a), for the words “as the case may be, or”, the words “as the case may be, and in relation to such bill of entry or shipping bill,” shall be substituted.

Insertion of  
new section  
127MA.

**87.** After section 127M of the Customs Act, the following section shall be inserted, namely:—

“127MA. (1) Notwithstanding anything contained in this Chapter, any person who has filed an appeal to the Appellate Tribunal under this Act, on or before the 29th day of February, 2000 and which is pending, shall, on withdrawal of such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled under this Chapter:

Provided that no such person shall be entitled to make an application under this section in a case where the Commissioner of Customs or any officer on his behalf has, on or before the date on which the Finance Act, 2000 receives the assent of the President, applied to the Appellate Tribunal for the determination of such points arising out of the decision or order specified by the Board in its order under sub-section (1) of section 129D or filed an appeal under sub-section (2) of section 129A, as the case may be.

Certain  
persons who  
have filed  
appeals to the  
Appellate  
Tribunal  
entitled to  
make  
applications to  
the Settlement  
Commission.

(2) Any person referred to in sub-section (1) may make an application to the Appellate Tribunal for permission to withdraw the appeal.

(3) On receipt of an application under sub-section (2), the Appellate Tribunal shall grant permission to withdraw the appeal.

(4) Upon withdrawal of the appeal, the proceedings in appeal immediately before such withdrawal shall, for the purposes of this Chapter, be deemed to be a proceeding pending before a proper officer.

(5) An application to the Settlement Commission under this section shall be made within a period of thirty days from the date on which the order of the Appellate Tribunal permitting the withdrawal of the appeal is communicated to the person.

(6) An application made to the Settlement Commission under this section shall be deemed to be an application made under sub-section (1) of section 127B and the provisions of this Chapter, except sub-section (1) of section 127C, shall apply accordingly.

(7) Where an application made to the Settlement Commission under this section is not entertained by the Settlement Commission, then, the appeal shall be deemed to have been revived before the Appellate Tribunal and the provisions contained in section 129A, section 129B and section 129C shall, so far as may be, apply accordingly.”.

**88.** In section 142 of the Customs Act, in sub-section (1), after the words “under this Act”, the words, figures and letter “including the amount required to be paid to the credit of the Central Government under section 28B” shall be inserted.

Amendment of section 142.

**89.** In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

Amendment of Act 51 of 1975.

(a) in section 9A, after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, relating to non-levy, short levy, refunds and appeals shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.”;

(b) after section 9A, the following section shall be inserted, namely:—

**'9AA.** (1) Where an importer proves to the satisfaction of the Central Government that he has paid any anti-dumping duty imposed under sub-section (1) of section 9A on any article, in excess of the actual margin of dumping in relation to such article, he shall be entitled to refund of such excess duty:

Provided that such importer shall not be entitled to refund of so much of such excess duty under this sub-section which is refundable under sub-section (2) of section 9A.

*Explanation.*—For the purposes of this sub-section, the expressions “margin of dumping”, “export price” and “normal value” shall have the meanings respectively assigned to them in the *Explanation* to sub-section (1) of section 9A.

(2) The Central Government may, by notification in the Official Gazette, make rules to—

(i) provide for the manner in which and the time within which the importer may make an application for the purposes of sub-section (1);

(ii) authorise the officer of the Central Government who shall dispose of such application on behalf of the Central Government within the time specified in such rules; and

Refund of anti-dumping duty in certain cases.

(iii) provide the manner in which the excess duty referred to in sub-section (1) shall be—

(A) determined by the officer referred to in clause (ii); and

(B) refunded by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, after such determination.;

(c) the First Schedule shall be amended in the manner specified in the Second Schedule.

Surcharge of customs.

90. (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 surcharge of customs, an amount, equal to ten per cent. of the duty chargeable on such goods calculated at the rate specified in the said First Schedule, read with any notification for the time being in force, issued by the Central Government in relation to the duty so chargeable.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 2001, and upon such cesser, section 6 of the General Clauses Act, 1897 shall apply as if the said sub-section had been repealed by a Central Act.

10 of 1897.

(3) The surcharge 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, drawbacks and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of surcharge of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

#### *Excise*

Insertion of new section 2A.

91. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), after section 2, the following section shall be inserted, namely:—

1 of 1944.

'2A. In this Act, save as otherwise expressly provided and unless the context otherwise requires, references to the expressions "duty", "duties", "duty of excise" and "duties of excise" shall be construed to include a reference to "Central Value Added Tax (CENVAT)".'.

References of certain expressions.

92. In the Central Excise Act, in section 3, in sub-section (1),—

(i) in clause (a), for the words "a duty of excise", the words, brackets and letters "a duty of excise, to be called the Central Value Added Tax (CENVAT)" shall be substituted;

(ii) in the proviso,—

(a) for the words and figures "under section 12 of the Customs Act, 1962", the words and figures "under the Customs Act, 1962 or any other law for the time being in force" shall be substituted and shall be deemed to have been substituted on and from the 11th day of May, 1982;

(b) for *Explanation 1*, the following *Explanation* shall be substituted and shall be deemed to have been substituted on and from the 11th day of May, 1982, namely:—

"*Explanation 1*.— Where in respect of any such like goods, any duty of customs leviable for the time being in force is leviable at different

Amendment of section 3.

rates, then, such duty shall, for the purposes of this proviso, be deemed to be leviable at the highest of those rates.”.

**93. In section 3A of the Central Excise Act,—**

Amendment of  
section 3A.

(a) for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—

“(2) Where a notification is issued under sub-section (1), the Central Government may, by rules,—

(a) provide the manner for determination of the annual capacity of production of the factory, in which such goods are produced, by an officer not below the rank of Assistant Commissioner of Central Excise and such annual capacity shall be deemed to be the annual production of such goods by such factory; or

(b) (i) specify the factor relevant to the production of such goods and the quantity that is deemed to be produced by use of a unit of such factor; and

(ii) provide for the determination of the annual capacity of production of the factory in which such goods are produced on the basis of such factor by an officer not below the rank of Assistant Commissioner of Central Excise and such annual capacity of production shall be deemed to be the annual production of such goods by such factory:

Provided that where a factory producing notified goods is in operation only during a part of the year, the annual production thereof shall be calculated on proportionate basis of the annual capacity of production:

Provided further that in a case where the factor relevant to the production is altered or modified at any time during the year, the annual production shall be redetermined on a proportionate basis having regard to such alteration or modification.”;

(b) in sub-section (3),—

(i) for the words “at such rate as the Central Government may by notification in the Official Gazette specify”, the words “at such rate, on the unit of production or, as the case may be, on such factor relevant to the production, as the Central Government may, by notification in the Official Gazette, specify” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000;

(ii) in the proviso, for the words “any continuous period of not less than seven days”, the words “any continuous period of fifteen days or more” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000;

(c) in sub-sections (4) and (5), for the words “Commissioner of Central Excise”, the words “Central Excise Officer not below the rank of Joint Commissioner of Central Excise” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000.

Substitution of new section for section 4.

Valuation of excisable goods for purposes of charging of duty of excise.

**94.** For section 4 of the Central Excise Act, the following section shall be substituted on and from the 1st day of July, 2000, namely:—

**'4. (1)** Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall—

(a) in a case where the goods are sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, be the transaction value;

(b) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed.

(2) The provisions of this section shall not apply in respect of any excisable goods for which a tariff value has been fixed under sub-section (2) of section 3.

(3) For the purposes of this section,—

(a) "assessee" means the person who is liable to pay the duty of excise under this Act and includes his agent;

(b) persons shall be deemed to be "related" if—

(i) they are inter-connected undertakings;

(ii) they are relatives;

(iii) amongst them the buyer is a relative and a distributor of the assessee, or a sub-distributor of such distributor; or

(iv) they are so associated that they have interest, directly or indirectly, in the business of each other.

*Explanation.—In this clause—*

(i) "inter-connected undertakings" shall have the meaning assigned to it in clause (g) of section 2 of the Monopolies and Restrictive Trade Practices Act, 1969; and

64 of 1969.

(ii) "relative" shall have the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956;

1 of 1956.

(c) "place of removal" means—

(i) a factory or any other place or premises of production or manufacture of the excisable goods;

(ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty,

from where such goods are removed;

(d) "transaction value" means the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price, any amount that the buyer is liable to pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of the sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter; but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods.'

**95.** In section 4A of the Central Excise Act, for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

Amendment of  
section 4A.

“*Explanation 2.—(a)* Where on the package of any excisable goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

*(b)* Where different retail sale prices are declared on different packages for the sale of any excisable goods in packaged form in different areas, each such retail sale price shall be the retail sale price for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.”.

**96.** In section 11 of the Central Excise Act, after the words “rules made thereunder”, the words, figures and letter “including the amount required to be paid to the credit of the Central Government under section 11D” shall be inserted.

Amendment of  
section 11.

**97.** In section 11A of the Central Excise Act, in sub-section (1),—

Amendment of  
section 11A.

*(a)* in the opening portion, for the words “erroneously refunded”, the words “erroneously refunded, whether or not such non-levy or non-payment, short-levy or short payment or erroneous refund, as the case may be, was on the basis of any approval, acceptance or assessment relating to the rate of duty on or valuation of excisable goods under any other provisions of this Act or the rules made thereunder”, shall be substituted and shall be deemed to have been substituted on and from the 17th day of November, 1980;

*(b)* for the words “six months”, wherever they occur, the words “one year” shall be substituted;

*(c)* after the proviso and before the *Explanation*, the following provisos shall be inserted, namely:—

“Provided further that where the amount of duty which has not been levied or paid or has been short-levied or short-paid or erroneously refunded is one crore rupees or less a notice under this sub-section shall be served by the Commissioner of Central Excise or with his prior approval by any officer subordinate to him:

Provided also that where the amount of duty which has not been levied or paid or has been short-levied or short-paid or erroneously refunded is more than one crore rupees, no notice under this sub-section shall be served without the prior approval of the Chief Commissioner of Central Excise.”.

**98.** In section 11AA of the Central Excise Act, for the words “at such rate not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board”, the words “at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette” shall be substituted.

Amendment of  
section 11AA.

**99.** In section 11AB of the Central Excise Act, in sub-section (1), for the words “at such rate not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board”, the words “at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette” shall be substituted.

Amendment of  
section 11AB.

**100.** In section 11AC of the Central Excise Act, for the proviso, the following shall be substituted, namely:—

Amendment of  
section 11AC.

“Provided that where such duty as determined under sub-section (2) of section 11A, and the interest payable thereon under section 11AB, is paid within thirty days from the date of communication of the order of the Central Excise Officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the duty so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available, if the amount of duty so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days of the communication of the order by which such increase in the duty takes effect.

*Explanation.*—For the removal of doubts, it is hereby declared that—

(1) the provisions of this section shall also apply to cases in which the order determining the duty under sub-section (2) of section 11A relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(2) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.”.

**Amendment of section 11B.** 101. In section 11B of the Central Excise Act, in sub-section (1), for the words “six months”, at both the places where they occur, the words “one year” shall be substituted.

**Amendment of section 11BB.** 102. In section 11BB of the Central Excise Act, for the words “by the Board”, the words “by the Central Government, by notification in the Official Gazette,” shall be substituted.

**Amendment of section 11D.** 103. In section 11D of the Central Excise Act, with effect from the 20th day of September, 1991,—

(a) in sub-section (1), for the words “every person who has collected any amount from the buyer of any goods”, the words “every person who is liable to pay duty under this Act or the rules made thereunder, and has collected any amount in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the buyer of such goods” shall be substituted and shall be deemed to have been substituted;

(b) for sub-section (2), the following sub-sections shall be substituted and shall be deemed to have been substituted, namely:—

“(2) Where any amount is required to be paid to the credit of the Central Government under sub-section (1) and which has not been so paid, the Central Excise Officer may serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.

(3) The Central Excise Officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(4) The amount paid to the credit of the Central Government under sub-section (1) or sub-section (3) shall be adjusted against the duty of excise payable by the person on finalisation of assessment or any other proceeding for

determination of the duty of excise relating to the excisable goods referred to in sub-section (1).

(5) Where any surplus is left after the adjustment under sub-section (4), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 11B and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Assistant Commissioner of Central Excise for the refund of such surplus amount.”.

**104.** In section 14A of the Central Excise Act, sub-section (4) shall be omitted.

Amendment of section 14A.

**105.** In section 14AA of the Central Excise Act, sub-section (4) shall be omitted.

Amendment of section 14AA.

**106.** In section 32E of the Central Excise Act, in sub-section (1), in the first proviso, in clause (a), for the words “filed monthly returns”, the words “filed returns” shall be substituted.

Amendment of section 32E.

**107.** After section 32P of the Central Excise Act, the following section shall be inserted, namely:—

Insertion of new section 32PA.

“32PA. (1) Notwithstanding anything contained in this Chapter, any person who has filed an appeal to the Appellate Tribunal under this Act, on or before the 29th day of February, 2000 and which is pending, shall, on withdrawal of such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled under this Chapter:

Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.

Provided that no such person shall be entitled to make an application under this section in a case where the Commissioner of Central Excise or any officer on his behalf has, on or before the date on which the Finance Act, 2000 receives the assent of the President, applied to the Appellate Tribunal for the determination of such points arising out of the decision or order specified by the Board in its order under sub-section (1) of section 35E or filed an appeal under sub-section (2) of section 35B, as the case may be.

(2) Any person referred to in sub-section (1) may make an application to the Appellate Tribunal for permission to withdraw the appeal.

(3) On receipt of an application under sub-section (2), the Appellate Tribunal shall grant permission to withdraw the appeal.

(4) Upon withdrawal of the appeal, the proceedings in appeal immediately before such withdrawal shall, for the purposes of this Chapter, be deemed to be a proceeding pending before a Central Excise Officer.

(5) An application to the Settlement Commission under this section shall be made within a period of thirty days from the date on which the order of the Appellate Tribunal permitting the withdrawal of the appeal is communicated to the person.

(6) An application made to the Settlement Commission under this section shall be deemed to be an application made under sub-section (1) of section 32E and the provisions of this Chapter, except sub-section (1) of section 32F, shall apply accordingly.

(7) Where an application made to the Settlement Commission under this section is not entertained by the Settlement Commission, then, the appeal shall be deemed to have been revived before the Appellate Tribunal and the provisions contained in section 35B, section 35C and section 35D shall, so far as may be, apply accordingly.”.

Amendment of  
section 37.

**108. In section 37 of the Central Excise Act,—**

(a) in sub-section (3), for the words "two thousand rupees and that any article in respect of which any such breach is committed shall be confiscated", the words "five thousand rupees" shall be substituted;

(b) in sub-section (4), for the portion beginning with the brackets, letter and words "(d) contravenes the provisions" and ending with the words "or five thousand rupees, whichever is greater", the following shall be substituted, namely:—

"(d) contravenes the provisions of any such rule with intent to evade payment of duty,

then, all such goods shall be liable to confiscation and the manufacturer, producer or licensee shall be liable to a penalty not exceeding the duty leviable on such goods or ten thousand rupees, whichever is greater";

(c) in sub-section (5), for the words "not exceeding three times the value of such goods or five thousand rupees, whichever is greater", the words "not exceeding the duty leviable on such goods or ten thousand rupees, whichever is greater" shall be substituted.

Validation of  
action taken  
under section  
3 of Act  
1 of 1944.

**109. Any action taken or anything done or purporting to have been taken or done under sub-section (1) of section 3 of the Central Excise Act, as amended by clause (ii) of section 88 at any time during the period commencing on and from the 11th day of May, 1982 and ending with the day, the Finance Act, 2000 receives the assent of the President shall be deemed to be and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by clause (ii) of section 88 had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—**

(a) all duties of excise levied, assessed or collected during the said period on any excisable goods under the Central Excise Act, shall be deemed to be and shall be deemed to always have been, as validly levied, assessed or collected as if the amendment made by clause (ii) of section 88 had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the refund of duties of excise, and no enforcement shall be made by any court of any decree or order directing the refund of, any such duties of excise which have been collected and which would have been validly collected if the amendment made by clause (ii) of section 88 had been in force at all material times;

(c) recovery shall be made of all such duties of excise which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, if the amendment made by clause (ii) of section 88 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 shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Validation of  
action taken  
under section  
11A of Act  
1 of 1944.

**110. (1) Any notice issued or served on any person under the provisions of section 11A of the Central Excise Act during the period commencing on and from the 17th day of November, 1980 and ending on the date on which the Finance Act, 2000 receives the assent of the President (hereinafter referred to as the said period) demanding duty on account of non-payment, short payment, non-levy, short-levy or erroneous refund within a period of six months or five years, as the case may be, from the relevant date as defined in clause (ii) of sub-section (3) of that section shall be deemed to be and to always have been, for all purposes, validly and effectively issued or served under that section, notwithstanding any approval, acceptance or assessment relating to the rate of duty on or value of, the**

excisable goods by any Central Excise Officer under any other provision of the Central Excise Act or the rules made thereunder.

(2) Any action taken or anything done or purporting to have been taken or done under section 11A of the Central Excise Act at any time during the said period shall be deemed to be and to have always been, for all purposes, as validly and effectively taken or done as if sub-section (1) had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) all duties of excise levied, assessed or collected during the period specified in sub-section (1) on any excisable goods under the Central Excise Act, shall be deemed to be and shall be deemed to always have been, as validly levied, assessed or collected as if sub-section (1) had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the refund of, and no enforcement shall be made by any court of any decree or order directing the refund of any such duties of excise which have been collected and which would have been validly collected if sub-section (1) had been in force at all material times;

(c) recovery shall be made of all such duties of excise which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, if sub-section (1) 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 shall be punishable as an offence which would not have been so punishable if this section had not come into force.

111. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. GSR 829(E), dated the 29th December, 1999, which was issued in exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, granting exemption from the duty of excise or, as the case may be, from the special duty of excise on goods supplied for the official use of foreign diplomatic or consular missions in India shall be deemed to have, and to always have for all purposes validly, come into force on and from the 2nd day of December, 1997 at all material times.

Validation of  
exemption  
given to  
diplomatic or  
consular  
missions with  
retrospective  
effect.

(2) Refund shall be made of all such duties of excise which have been collected but which would not have been so collected if the notification referred to in sub-section (1) had been in force at all material times.

(3) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the duty of excise under sub-section (2) shall be made within six months from the date on which the Finance Act, 2000 receives the assent of the President.

112. (1) Notwithstanding anything contained in any rule of the Central Excise Rules, 1944, no credit of any duty paid on high speed diesel oil at any time during the period commencing on and from the 16th day of March, 1995 and ending with the day, the Finance Act, 2000 receives the assent of the President, shall be deemed to be admissible.

Validation of  
the denial of  
credit of duty  
paid on high  
speed diesel  
oil.

(2) Any action taken or anything done or purported to have been taken or done at any time during the said period under the Central Excise Act or any rules made thereunder to deny the credit of any duty in respect of high speed diesel oil, and also to disallow such credit to be utilised for payment of any kind of duty on any excisable goods shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done, as if the provisions of sub-section (1) had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for allowing the credit of the duty paid on high speed diesel oil and no enforcement shall be made by any court, tribunal or other authority of any decree or order allowing such credit of duty as if the provisions of sub-section (1) had been in force at all material times;

(b) recovery shall be made of all the credit of duty, which have been taken or utilised but which would not have been allowed to be taken or utilised, if the provisions of sub-section (1) had been in force at all material times, within a period of thirty days from the date on which the Finance Act, 2000 receives the assent of the President and in the event of non-payment of such credit of duty within this period, in addition to the amount of credit of such duty recoverable, interest at the rate of twenty-four per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

*Explanation.*—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 this section had not come into force.

Amendment of  
Act 5 of 1986.

113. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(i) the First Schedule shall be amended in the manner as specified in the Third Schedule;

(ii) the Second Schedule shall be amended in the manner as specified in the Fourth Schedule.

Amendment of  
Act 58 of  
1957.

114. 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.

Amendment of  
Act 16 of  
1955.

115. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, shall be amended in the manner specified in the Sixth Schedule.

## CHAPTER V

### SERVICE TAX

Amendment of  
Act 32 of  
1994.

116. During the period commencing on and from the 16th day of July, 1997 and ending with the 16th day of October, 1998, the provisions of Chapter V of the Finance Act, 1994 shall be deemed to have had effect subject to the following modifications, namely:—

(a) in section 65,—

(i) for clause (6), the following clause had been substituted, namely:—

(6) “assessee” means a person liable for collecting the service tax and includes—

(i) his agent; or

(ii) in relation to services provided by a clearing and forwarding agent, every person who engages a clearing and forwarding agent and by whom remuneration or commission (by whatever name called) is paid for such services to the said agent; or

(iii) in relation to services provided by a goods transport operator, every person who pays or is liable to pay the freight either himself or through his agent for the transportation of goods by road in a goods carriage;’;

(ii) after clause (18), the following clauses had been substituted, namely:—

59 of 1988.

'(18A) "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988;

'(18B) "goods transport operator" means any commercial concern engaged in the transportation of goods but does not include a courier agency;';

(iii) in clause (48), after sub-clause (m), the following sub-clause had been inserted, namely:—

"(ma) to a customer, by a goods transport operator in relation to carriage of goods by road in a goods carriage;";

(b) in section 66, for sub-section (3), the following sub-section had been substituted, namely:—

"(3) On and from the 16th day of July, 1997, there shall be levied a tax at the rate of five per cent. of the value of taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (ma), (n) and (o) of clause (48) of section 65 and collected in such manner as may be prescribed.";

(c) in section 67, after clause (k), the following clause had been inserted, namely:—

"(ka) in relation to service provided by goods transport operator to a customer, shall be the gross amount charged by such operator for services in relation to carrying goods by road in a goods carriage and includes the freight charges but does not include any insurance charges.";

**117.** Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, sub-clauses (xii) and (xvii) of clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994 as they stood immediately before the commencement of the Service Tax (Amendment) Rules, 1998 shall be deemed to be valid and to have always been valid as if the said sub-clauses had been in force at all material times and accordingly,—

(i) any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 16th day of July, 1997 and ending with the day, the Finance Act, 2000 receives the assent of the President shall be deemed to be valid and always to have been valid for all purposes, as validly and effectively taken or done;

(ii) any service tax refunded in pursuance of any judgment, decree or order of any court striking down sub-clauses (xii) and (xvii) of clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994 before the date on which the Finance Act, 2000 receives the assent of the President shall be recoverable within a period of thirty days from the date on which the Finance Act, 2000 receives the assent of the President, and in the event of non-payment of such service tax refunded within this period, in addition to the amount of service tax recoverable, interest at the rate of twenty-four per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days, till the date of payment.

*Explanation.*—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 this section had not come into force.

Validation of  
certain action  
taken under  
Service Tax  
Rules.

## CHAPTER VI

## MISCELLANEOUS

Substitution of new section for section 8A of Act 2 of 1899.

Securities dealt in depository not liable to stamp duty.

**118.** In the Indian Stamp Act, 1899, for section 8A, the following section shall be substituted, namely:—

**'8A.** Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) an issuer, by the issue of securities to one or more depositaries shall, in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped;

(b) where an issuer issues certificate of security under sub-section (3) of section 14 of the Depositories Act, 1996, on such certificate duty shall be payable as is payable on the issue of duplicate certificate under this Act;

(c) the transfer of—

(i) registered ownership of securities from a person to a depository or from a depository to a beneficial owner;

(ii) beneficial ownership of securities, dealt with by a depository;

(iii) beneficial ownership of units, such units being units of a Mutual Fund including units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963, dealt with by a depository,

shall not be liable to duty under this Act or any other law for the time being in force.

22 of 1996.

52 of 1963.

*Explanation 1.*—For the purposes of this section, the expressions “beneficial ownership”, “depository” and “issuer” shall have the meanings respectively assigned to them in clauses (a), (e) and (f) of sub-section (1) of section 2 of the Depositories Act, 1996.

22 of 1996.

*Explanation 2.*—For the purposes of this section, the expression “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.’

42 of 1956.

Amendment of section 9 of Act 74 of 1956.

**119.** In the Central Sales Tax Act, 1956, in section 9,—

(a) in sub-section (2), for the word “penalty”, wherever it occurs, the words “interest or penalty” shall be substituted;

(b) in sub-section (2A), for the words “provisions relating to offences and penalties”, the words “provisions relating to offences, interest and penalties” shall be substituted;

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

“(2B) If the tax payable by any dealer under this Act is not paid in time, the dealer shall be liable to pay interest for delayed payment of such tax and all the provisions for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax and assessment and collection of interest for delayed payment of tax, of the general sales tax law of each State, shall apply in relation to due date for payment of tax, rate of interest for delayed payment of tax, and assessment and collection of interest for delayed payment of tax under this Act in such States as if the tax and the interest payable under this Act were a tax and an interest under such sales tax law.”;

74 of 1956.

Validation.

(d) in sub-section (3), for the words "including any penalty", the words "including any interest or penalty" shall be substituted.

120. (1) The provisions of section 9 of the Central Sales Tax Act, 1956 (hereafter in this section referred to as the Central Sales Tax Act) shall have effect, and shall be deemed always to have had effect, as if that section also provided—

(a) that all the provisions relating to interest of the general sales tax law of each State shall, with necessary modifications, apply in relation to—

(i) the assessment, re-assessment, collection and enforcement of payment of any tax required to be collected under the Central Sales Tax Act, in such State; and

(ii) any process connected with such assessment, re-assessment, collection or enforcement of payment; and

(b) that for the purposes of the application of the provisions of such law, the tax under the Central Sales Tax Act shall be deemed to be tax under such law.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, general sales tax law of any State imposed or purporting to have been imposed in pursuance of the provisions of section 9 of the Central Sales Tax Act, and all proceedings, acts or things taken or done for the purposes of, or in relation to, the imposition or collection of such interest, before the commencement of this section, shall, for all purposes, be deemed to be and to have always been imposed, taken or done as validly and effectively as if the provisions of sub-section (1) had been in force when such interest was imposed or proceedings or acts or things were taken or done and, accordingly,—

(a) no suit or other proceedings shall be maintained or continued in, or before, any court, tribunal or other authority for the refund of any amount received or realised by way of such interest;

(b) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realised by way of such interest;

(c) where any amount which had been received or realised by way of such interest is refunded before the date on which the Finance Act, 2000 receives the assent of the President and such refund would not have been allowed if the provisions of sub-section (1) had been in force on the date on which the order for such refund was passed, the amount so refunded may be recovered as an arrear of tax under the Central Sales Tax Act;

(d) any proceeding, act or thing which could have been validly taken, continued or done for the imposition or collection of such interest at any time before the commencement of this section if the provisions of sub-section (1) had then been in force but which had not been taken, continued or done, may, after such commencement, be taken, continued or done.

(3) Nothing in sub-section (2) shall be construed as preventing any person—

(a) from questioning the imposition or collection of any interest or any proceedings, act or thing in connection therewith; or

(b) from claiming any refund,

in accordance with the provisions of the Central Sales Tax Act, read with sub-section (1).

*Explanation.*—For the purposes of this section, "general sales tax law" shall have the same meaning assigned to it in the Central Sales Tax Act.

Amendment  
of Act 21 of  
1998.

**121. In the Finance (No. 2) Act, 1998, with effect from the 1st day of September, 1998,—**

(a) in section 88, in clause (e), in sub-clause (ii), for the words “two per cent. of the tax arrear”, the words “two per cent. of the disputed chargeable interest” shall be substituted and shall be deemed to have been substituted;

(b) in section 90, in sub-section (2), for the words “within thirty days of the passing of an order by the designated authority”, the words “within thirty days from the date of receipt of an order passed by the designated authority” shall be substituted and shall be deemed to have been substituted.

Amendment  
of Act 27 of  
1999.

**122. In the Finance Act, 1999, in the First Schedule, in Part III, in the opening portion, for the word, figures and letters “section 115AC”, the word, figures and letters “section 115ACA” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1999.**

## THE FIRST SCHEDULE

*(See section 2)*

### PART I

#### INCOME-TAX

##### *Paragraph A*

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (3) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

###### *Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 50,000                          | <i>Nil;</i>   |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000   | 10 per cent. of the amount by which the total income exceeds Rs. 50,000;                          |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 60,000;    |
| (4) where the total income exceeds Rs. 1,50,000                                | Rs. 19,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

###### *Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 or section 113 shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced,

(ii) in the case of every person, other than those mentioned in item (i),

be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident:

Provided further that in case of persons mentioned in item (i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

##### *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                        | 10 per cent. of the total income;  |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 <i>plus</i> 35 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 or in section 112 or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 35 per cent.

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of ten 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 35 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, 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, of the total income

50 per cent.;

48 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of item I of this Paragraph, or in section 112 or section 113, shall, in the case of every domestic company, be increased by a surcharge calculated at the rate of ten 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 the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) 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	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(E) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(F) on income by way of winnings from horse races	40 per cent.;
(G) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;

(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(C) on income by way of winnings from horse races	40 per cent.;
(D) on income by way of long-term capital gains	20 per cent.;
(E) on the whole of the other income	30 per cent.
<b>2. In the case of a company—</b>	
(a) where the company is a domestic company—	
(i) on income by way of interest other than “Interest on securities”	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	20 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(ii) on income by way of winnings from horse races	40 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) 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 first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;

(C) where the agreement is made on or after the 1st day of June, 1997 20 per cent.;

(vi) 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 where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 30 per cent.;

(C) where the agreement is made on or after the 1st day of June, 1997 20 per cent.;

(vii) on income by way of long-term capital gains 20 per cent.;

(viii) on any other income 48 per cent.

**Explanation.**—For the purpose of item 1(b)(i) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

#### *Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of—

(a) item 1 of this Part shall be increased by a surcharge, for purposes of the Union calculated at the rate of ten per cent. of such income-tax; and [twelve per cent.]<sup>2</sup>

(b) sub-item (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of ten per cent. of such income-tax. [eleven per cent.]<sup>2</sup> [thirteen per cent.]<sup>2</sup>

#### PART III

#### RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act 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 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 section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act] at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable

<sup>1</sup> Subs. by Act. I of 2001, S.3

<sup>2</sup> Subs. by Act. 4 of 2001, S.3 (w.e.f. 1.2.2001)

to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

*Paragraph A*

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

*Rates of income-tax*

- |   |  |
|---|--|
| (1) where the total income does not exceed<br>Rs. 50,000                          | Nil;   |
| (2) where the total income exceeds Rs. 50,000<br>but does not exceed Rs. 60,000   | 10 per cent. of the amount by which<br>the total income exceeds Rs. 50,000;                      |
| (3) where the total income exceeds Rs. 60,000<br>but does not exceed Rs. 1,50,000 | Rs. 1,000 plus 20 per cent. of the<br>amount by which the total income<br>exceeds Rs. 60,000;    |
| (4) where the total income exceeds Rs. 1,50,000                                   | Rs. 19,000 plus 30 per cent. of the<br>amount by which the total income<br>exceeds Rs. 1,50,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 or section 113 shall,—

(i) in the case of every individual or Hindu undivided family, or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated—

[twelve per cent] 14  
(A) at the rate of ten per cent. of such income-tax where the total income exceeds sixty thousand rupees but does not exceed one lakh fifty thousand rupees; or

[seventeen per cent] 15  
(B) at the rate of fifteen per cent. of such income-tax where the total income exceeds one lakh fifty thousand rupees;

(ii) in the case of every person other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

[twelve per cent]

Provided that in case of persons mentioned in sub-item (A) of item (i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees:

Provided further that in case of persons mentioned in sub-item (B) of item (i) above having a total income exceeding one lakh fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of one lakh fifty thousand rupees by more than the amount of income that exceeds one lakh fifty thousand rupees.

Subs. by Act, u/s 2001, s.3 (w.e.f. 1.2.2001)

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |   |   |
|---|---|
| (1) where the total income does not exceed<br>Rs. 10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000<br>but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the<br>amount by which the total income<br>exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                   | Rs. 3,000 plus 35 per cent. of the<br>amount by which the total income<br>exceeds Rs. 20,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112 or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of ~~ten per cent.~~  
*[twelve per cent.]*

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

- |                                  |              |
|----------------------------------|--------------|
| On the whole of the total income | 35 per cent. |
|----------------------------------|--------------|

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of ~~ten per cent.~~  
*[twelve per cent.]*

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

- |                                  |              |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of ~~ten per cent.~~  
*[twelve per cent.]*

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| I. In the case of a domestic company | 35 per cent. of the total<br>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, 1976, or

*4 subs. by Act 4 of 2001, s. 3 (w.e.f. 2.2.2001)*

(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 48 per cent.;

#### *Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of item I of this Paragraph, or in section 112 or section 113, shall, in the case of every domestic company, be increased by a surcharge calculated at the rate of ten per cent. of such income-tax.

*[Eleven per cent.]*  
*& [Thirteen per cent.]*

#### PART IV

[See section 2(10)(c)]

#### RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

*Rule 1.*—Agricultural income of the nature referred to in sub-clause (a) of clause (IA) 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 (IA) 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 of 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, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C 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 (IA) 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.

*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.

*1 subs. by Act, 1 of 2001, s.3*

*2 subs. by Act, 4 of 2001, s.3 (w.e.f. 1.2.2001)*

**Rule 5.**—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 6.**—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 member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the 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 7.**—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 8.**—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999, 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, 1992, 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, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, 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, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, 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, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, 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, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, 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, 1998 or the 1st day of April, 1999,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999,

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, 2000.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2001 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, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000, is a loss, then, for the purposes of sub-section (9) 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, 1993, 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, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, 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, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, 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, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000,

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, 2001.

(3) 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).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

*Rule 9.*—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 10.*—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 11.*—For the purposes of computing the net agricultural income of the assessee, the Assessing 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 89(c)]

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 1, for the entry in column (4) occurring against all the sub-heading Nos., the entry “35%” shall be substituted;

(2) in Chapter 2,—

(i) for the entry in column (4) occurring against all sub-heading Nos. (except sub-heading Nos. 0207.13 and 0207.14), the entry “35%” shall be substituted;

(ii) in sub-heading Nos. 0207.13 and 0207.14, for the entry in column (4), the entry “100%” shall be substituted;

(3) in Chapter 3, for the entry in column (4) occurring against all the sub-heading Nos., the entry “35%” shall be substituted;

(4) in Chapter 4,—

(i) in sub-heading Nos. 0402.10 and 0402.21, for the entry in column (4) occurring against each of them, the entry “60%” shall be substituted;

(ii) in sub-heading Nos. 0405.10 and 0406.90, for the entry in column (4) occurring against each of them, the entry “40%” shall be substituted;

(5) in Chapter 5, for the entry in column (4) occurring against all the sub-heading Nos., the entry “35%” shall be substituted;

(6) in Chapter 6,—

(i) in sub-heading Nos. 0601.10, 0601.20, 0602.10, 0602.20, 0602.30, 0602.40 and 0602.90, for the entry in column (4) occurring against each of them, the entry “10%” shall be substituted;

(ii) in sub-heading Nos. 0603.10, 0603.90, 0604.10, 0604.91 and 0604.99, for the entry in column (4) occurring against each of them, the entry “35%” shall be substituted;

(7) in Chapter 7,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 0713.10), the entry “35%” shall be substituted;

(ii) in sub-heading No. 0713.10, for the entry in column (4), the entry “50%” shall be substituted;

(8) in Chapter 8,—

(i) for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 0801.31, 0802.11, 0802.12, 0804.10, 0805.10, 0805.30, 0805.40, 0806.10, 0806.20, 0808.10, 0808.20, 0809.40, 0810.90 and 0813.20), the entries “35%” and “25%” shall respectively be substituted;

(ii) in sub-heading No. 0801.31, for the entry in column (4), the entry “35%” shall be substituted;

(iii) in sub-heading No. 0802.11, for the entry in column (4), the entry “Rs. 35 per kg.” shall be substituted;

(iv) in sub-heading No. 0805.40, for the entry in column (4), the entry “25%” shall be substituted;

(v) in sub-heading No. 0806.10, for the entry in column (4), the entry “40%” shall be substituted;

(vi) in sub-heading No. 0806.20, for the entries in column (4) and column (5), the entries “115%” and “105%” shall respectively be substituted;

(vii) in sub-heading No. 0808.10, for the entry in column (4), the entry “50%” shall be substituted;

(viii) in sub-heading No. 0808.20, for the entry in column (4), the entry "35%" shall be substituted;

(ix) in sub-heading No. 0810.90, for the entry in column (4), the entry "35%" shall be substituted;

(x) in sub-heading No. 0813.20, for the entry in column (4), the entry "25%" shall be substituted;

(9) in Chapter 9,—

(i) for the entries in column (4) and column (5) occurring against sub-heading Nos. 0901.11, 0901.12, 0901.21, 0901.22 and 0901.90, the entries "35%" and "35% less 13 paise per kg." shall respectively be substituted;

(ii) for the entries in column (4) and column (5) occurring against sub-heading Nos. 0902.10, 0902.20, 0902.30 and 0902.40, the entries "35%" and "35% less 26 paise per kg." shall respectively be substituted;

(10) in Chapter 10,—

(i) in sub-heading Nos. 1001.10 and 1001.90, for the entry in column (4) occurring against each of them, the entry "100%" shall be substituted;

(ii) in sub-heading No. 1005.10, for the entry in column (4), the entry "70%" shall be substituted;

(iii) in sub-heading No. 1005.90, for the entry in column (4), the entry "60%" shall be substituted;

(iv) in sub-heading Nos. 1006.10 and 1006.20, for the entry in column (4) occurring against each of them, the entry "80%" shall be substituted;

(v) in sub-heading No. 1006.30, for the entry in column (4), the entry "70%" shall be substituted;

(vi) in sub-heading Nos. 1006.40 and 1007.00, for the entry in column (4) occurring against each of them, the entry "80%" shall be substituted;

(vii) in sub-heading No. 1008.20, for the entry in column (4), the entry "70%" shall be substituted;

(11) in Chapter 11, in sub-heading No. 1107.10, for the entry in column (4), the entry "40%" shall be substituted;

(12) in Chapter 12,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1201.00, 1202.10, 1202.20, 1203.00, 1204.00, 1205.00, 1206.00, 1207.10, 1207.20, 1207.30, 1207.40, 1207.50, 1207.60, 1207.91, 1207.92, 1207.99, 1209.91 and 1209.99), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 1201.00, 1202.10, 1202.20, 1203.00, 1204.00, 1205.00, 1206.00, 1207.10, 1207.20, 1207.30, 1207.40, 1207.50, 1207.60, 1207.91, 1207.92 and 1207.99, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "25%" shall respectively be substituted;

(iii) in sub-heading Nos. 1209.91 and 1209.99, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(13) in Chapter 13,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 1301.20), the entry "35%" shall be substituted;

(ii) in sub-heading No. 1301.20, for the entries in column (4) and column (5), the entries "35%" and "25%" shall respectively be substituted;

(14) in Chapter 14, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(15) in Chapter 15,—

- (i) in sub-heading Nos. 1505.10 and 1505.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (ii) in sub-heading Nos. 1507.10 and 1507.90, for the entry in column (4) occurring against each of them, the entry "45%" shall be substituted;
- (iii) in sub-heading Nos. 1508.10 and 1508.90, for the entry in column (4) occurring against each of them, the entry "100%" shall be substituted;
- (iv) in sub-heading No. 1509.10, for the entry in column (4), the entry "45%" shall be substituted;
- (v) in sub-heading No. 1509.90, for the entry in column (4), the entry "40%" shall be substituted;
- (vi) in sub-heading No. 1510.00, for the entry in column (4), the entry "45%" shall be substituted;
- (vii) in sub-heading Nos. 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.11, 1513.19, 1513.21 and 1513.29, for the entry in column (4) occurring against each of them, the entry "100%" shall be substituted;
- (viii) in sub-heading Nos. 1514.10 and 1514.90, for the entry in column (4) occurring against each of them, the entry "75%" shall be substituted;
- (ix) in sub-heading Nos. 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60 and 1515.90, for the entry in column (4) occurring against each of them, the entry "100%" shall be substituted;

(16) in Chapter 16,—

- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1601.00 and 1602.32), the entry "35%" shall be substituted;
- (ii) in sub-heading Nos. 1601.00 and 1602.32, for the entry in column (4), the entry "100%" shall be substituted;

(17) in Chapter 17,—

- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1701.11, 1701.12, 1701.91, 1701.99 and 1704.10), the entry "35%" shall be substituted;
- (ii) in sub-heading Nos. 1701.11, 1701.12, 1701.91 and 1701.99, for the entry in column (4) occurring against each of them, the entry "100%" shall be substituted;
- (iii) in sub-heading No. 1704.10, for the entry in column (4), the entry "45%" shall be substituted;

(18) in Chapter 18, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 1801.00), the entry "35%" shall be substituted;

(19) in Chapter 19,—

- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1901.10 and 1905.30), the entry "35%" shall be substituted;
- (ii) in sub-heading No. 1901.10, for the entry in column (4), the entry "50%" shall be substituted;
- (iii) in sub-heading No. 1905.30, for the entry in column (4), the entry "45%" shall be substituted;

(20) in Chapter 20, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(21) in Chapter 21,—

- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 2106.90), the entry "35%" shall be substituted;

- (ii) in sub-heading No. 2106.90, for the entry in column (4), the entry "170%" shall be substituted;
- (22) in Chapter 22,—
- (i) in sub-heading Nos. 2201.10, 2201.90, 2202.10 and 2202.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (ii) in sub-heading No. 2207.10, for the entry in column (4), the entry "210%" shall be substituted;
- (iii) in sub-heading No. 2207.20, for the entry in column (4), the entry "35%" shall be substituted;
- (iv) in sub-heading Nos. 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70 and 2208.90, for the entry in column (4) occurring against each of them, the entry "210%" shall be substituted;
- (v) in sub-heading No. 2209.00, for the entry in column (4), the entry "35%" shall be substituted;
- (23) in Chapter 23, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (24) in Chapter 24, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (25) in Chapter 25, in sub-heading Nos. 2515.11, 2515.12, 2515.20, 2516.11, 2516.12, 2516.21, 2516.22, 2516.90, 2519.10, 2519.90, 2523.10, 2523.21, 2523.29, 2523.30 and 2523.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (26) in Chapter 27,—
- (i) in sub-heading No. 2701.11, for the entry in column (4), the entry "25%" shall be substituted;
- (ii) in sub-heading No. 2701.12, for the entry in column (4), the entry "55%" shall be substituted;
- (iii) in sub-heading No. 2701.19, for the entry in column (4), the entry "25%" shall be substituted;
- (iv) in sub-heading No. 2709.00, for the entry in column (4), the entry "15%" shall be substituted;
- (v) in sub-heading No. 2710.00, for the entry in column (4), the entry "35%" shall be substituted;
- (vi) in sub-heading Nos. 2712.10, 2712.20, 2712.90, 2713.12, 2713.20, 2713.90 and 2715.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (27) in Chapter 28, in sub-heading No. 2823.00, for the entry in column (4), the entry "35%" shall be substituted;
- (28) in Chapter 29, in sub-heading No. 2918.14, for the entry in column (4), the entry "35%" shall be substituted;
- (29) in Chapter 32, in sub-heading Nos. 3206.11 and 3206.19, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (30) in Chapter 33,—
- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3302.10), the entry "35%" shall be substituted;
- (ii) in sub-heading No. 3302.10, for the entry in column (4), the entry "170%" shall be substituted;
- (31) in Chapter 34,—
- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19), the entry "35%" shall be substituted;

- (ii) in sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19, for the entries in column (4) and column (5) occurring against each of them, the entries "35%" and "25%" shall respectively be substituted;
- (32) in Chapter 37, in sub-heading Nos. 3702.32, 3702.39, 3702.42, 3702.43 and 3702.44, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (33) in Chapter 38,—
- (i) in sub-heading No. 3818.00, for the entry in column (4), the entry "Free" shall be substituted;
  - (ii) in sub-heading No. 3823.70, for the entry in column (4), the entry "50%" shall be substituted;
  - (34) in Chapter 40, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4001.21, 4001.22, 4001.29 and 4011.30), the entry "35%" shall be substituted;
  - (35) in Chapter 42, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
  - (36) in Chapter 43, in sub-heading Nos. 4303.10, 4303.90 and 4304.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (37) in Chapter 44, in sub-heading Nos. 4410.11, 4410.19, 4410.90, 4411.11, 4411.19, 4411.21, 4411.29, 4411.31, 4411.39, 4411.91 and 4411.99, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (38) in Chapter 46, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
  - (39) in Chapter 47, in sub-heading Nos. 4707.10, 4707.20, 4707.30 and 4707.90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;
  - (40) in Chapter 48, in sub-heading Nos. 4812.00, 4813.10, 4813.20, 4813.90, 4814.10, 4814.20, 4814.30, 4814.90, 4815.00, 4816.10, 4816.20, 4816.30, 4816.90, 4817.10, 4817.20, 4817.30, 4818.10, 4818.20, 4818.30, 4818.40, 4818.50, 4818.90, 4819.10, 4819.20, 4819.30, 4819.40, 4819.50, 4819.60, 4820.10, 4820.20, 4820.30, 4820.40, 4820.50, 4820.90, 4821.10, 4821.90, 4822.10, 4822.90, 4823.11, 4823.19, 4823.40, 4823.51, 4823.59, 4823.60, 4823.70 and 4823.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (41) in Chapter 51,—
- (i) in sub-heading Nos. 5101.21 and 5101.30, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (ii) in sub-heading Nos. 5105.10, 5105.21, 5105.29, 5105.30, 5105.40, 5106.10, 5106.20, 5107.10, 5107.20, 5108.10 and 5108.20, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
  - (iii) in sub-heading Nos. 5109.10, 5109.90 and 5110.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (iv) in sub-heading No. 5111.11, for the entry in column (4), the entry "30% or Rs. 155 per sq. mtr., whichever is higher" shall be substituted;
  - (v) in sub-heading No. 5111.19, for the entry in column (4), the entry "30% or Rs. 170 per sq. mtr., whichever is higher" shall be substituted;
  - (vi) in sub-heading No. 5111.20, for the entry in column (4), the entry "30% or Rs. 90 per sq. mtr., whichever is higher" shall be substituted;
  - (vii) in sub-heading No. 5111.30, for the entry in column (4), the entry "30% or Rs. 85 per sq. mtr., whichever is higher" shall be substituted;
  - (viii) in sub-heading No. 5111.90, for the entry in column (4), the entry "30% or Rs. 105 per sq. mtr., whichever is higher" shall be substituted;

- (ix) in sub-heading No. 5112.11, for the entry in column (4), the entry "30% or Rs. 145 per sq. mtr., whichever is higher" shall be substituted;
- (x) in sub-heading No. 5112.19, for the entry in column (4), the entry "30% or Rs. 175 per sq. mtr., whichever is higher" shall be substituted;
- (xi) in sub-heading No. 5112.20, for the entry in column (4), the entry "30% or Rs. 95 per sq. mtr., whichever is higher" shall be substituted;
- (xii) in sub-heading No. 5112.30, for the entry in column (4), the entry "30% or Rs. 130 per sq. mtr., whichever is higher" shall be substituted;
- (xiii) in sub-heading No. 5112.90, for the entry in column (4), the entry "30% or Rs. 155 per sq. mtr., whichever is higher" shall be substituted;
- (xiv) in sub-heading No. 5113.00, for the entry in column (4), the entry "35% or Rs. 60 per sq. mtr., whichever is higher" shall be substituted;
- (42) in Chapter 52,—
  - (i) in sub-heading No. 5203.00, for the entry in column (4), the entry "35%" shall be substituted;
  - (ii) in sub-heading Nos. 5204.11, 5204.19, 5204.20, 5205.11, 5205.12, 5205.13, 5205.14, 5205.15, 5205.21, 5205.22, 5205.23, 5205.24, 5205.26, 5205.27, 5205.28, 5205.31, 5205.32, 5205.33, 5205.34, 5205.35, 5205.41, 5205.42, 5205.43, 5205.44, 5205.46, 5205.47, 5205.48, 5206.11, 5206.12, 5206.13, 5206.14, 5206.15, 5206.21, 5206.22, 5206.23, 5206.24, 5206.25, 5206.31, 5206.32, 5206.33, 5206.34, 5206.35, 5206.41, 5206.42, 5206.43, 5206.44 and 5206.45, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
  - (iii) in sub-heading Nos. 5207.90, 5208.11, 5208.12, 5208.13, 5208.19, 5208.21, 5208.22, 5208.23, 5208.29, 5208.31, 5208.32, 5208.33 and 5208.39, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (iv) in sub-heading No. 5208.41, for the entry in column (4), the entry "30% or Rs. 9 per sq. mtr., whichever is higher" shall be substituted;
  - (v) in sub-heading No. 5208.42, for the entry in column (4), the entry "30% or Rs. 27 per sq. mtr., whichever is higher" shall be substituted;
  - (vi) in sub-heading No. 5208.43, for the entry in column (4), the entry "35%" shall be substituted;
  - (vii) in sub-heading No. 5208.49, for the entry in column (4), the entry "35% or Rs. 200 per kg., whichever is higher" shall be substituted;
  - (viii) in sub-heading No. 5208.51, for the entry in column (4), the entry "30% or Rs. 27 per sq. mtr., whichever is higher" shall be substituted;
  - (ix) in sub-heading No. 5208.52, for the entry in column (4), the entry "30% or Rs. 14 per sq. mtr., whichever is higher" shall be substituted;
  - (x) in sub-heading No. 5208.53, for the entry in column (4), the entry "30% or Rs. 21 per sq. mtr., whichever is higher" shall be substituted;
  - (xi) in sub-heading No. 5208.59, for the entry in column (4), the entry "30% or Rs. 36 per sq. mtr., whichever is higher" shall be substituted;
  - (xii) in sub-heading Nos. 5209.11, 5209.12, 5209.19, 5209.21, 5209.22, 5209.29, 5209.31, 5209.32 and 5209.39, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (xiii) in sub-heading No. 5209.41, for the entry in column (4), the entry "35% or Rs. 145 per kg., whichever is higher" shall be substituted;
  - (xiv) in sub-heading No. 5209.42, for the entry in column (4), the entry "30% or Rs. 30 per sq. mtr., whichever is higher" shall be substituted;
  - (xv) in sub-heading No. 5209.43, for the entry in column (4), the entry "35% or Rs. 145 per kg., whichever is higher" shall be substituted;

- (xvi) in sub-heading No. 5209.49, for the entry in column (4), the entry "35%" shall be substituted;
- (xvii) in sub-heading Nos. 5209.51 and 5209.52, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 24 per sq. mtr., whichever is higher" shall be substituted;
- (xviii) in sub-heading No. 5209.59, for the entry in column (4), the entry "30% or Rs. 50 per sq. mtr., whichever is higher" shall be substituted;
- (xix) in sub-heading Nos. 5210.11, 5210.12, 5210.19, 5210.21, 5210.22, 5210.29, 5210.31, 5210.32 and 5210.39, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xx) in sub-heading No. 5210.41, for the entry in column (4), the entry "30% or Rs. 15 per sq. mtr., whichever is higher" shall be substituted;
- (xxi) in sub-heading No. 5210.42, for the entry in column (4), the entry "35% or Rs. 165 per kg., whichever is higher" shall be substituted;
- (xxii) in sub-heading No. 5210.49, for the entry in column (4), the entry "35% or Rs. 185 per kg., whichever is higher" shall be substituted;
- (xxiii) in sub-heading No. 5210.51, for the entry in column (4), the entry "30% or Rs. 12 per sq. mtr., whichever is higher" shall be substituted;
- (xxiv) in sub-heading No. 5210.52, for the entry in column (4), the entry "30% or Rs. 15 per sq. mtr., whichever is higher" shall be substituted;
- (xxv) in sub-heading No. 5210.59, for the entry in column (4), the entry "30% or Rs. 12 per sq. mtr., whichever is higher" shall be substituted;
- (xxvi) in sub-heading Nos. 5211.11, 5211.12, 5211.19, 5211.21, 5211.22, 5211.29, 5211.31, 5211.32 and 5211.39, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxvii) in sub-heading No. 5211.41, for the entry in column (4), the entry "35% or Rs. 155 per kg., whichever is higher" shall be substituted;
- (xxviii) in sub-heading No. 5211.42, for the entry in column (4), the entry "30% or Rs. 18 per sq. mtr., whichever is higher" shall be substituted;
- (xxix) in sub-heading No. 5211.43, for the entry in column (4), the entry "35% or Rs. 165 per kg., whichever is higher" shall be substituted;
- (xxx) in sub-heading No. 5211.49, for the entry in column (4), the entry "35%" shall be substituted;
- (xxxi) in sub-heading Nos. 5211.51, 5211.52 and 5211.59, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 12 per sq. mtr., whichever is higher" shall be substituted;
- (xxxii) in sub-heading Nos. 5212.11, 5212.12, 5212.13 and 5212.14, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxxiii) in sub-heading No. 5212.15, for the entry in column (4), the entry "35% or Rs. 165 per kg., whichever is higher" shall be substituted;
- (xxxiv) in sub-heading Nos. 5212.21, 5212.22 and 5212.23, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxxv) in sub-heading No. 5212.24, for the entry in column (4), the entry "30% or Rs. 20 per sq. mtr., whichever is higher" shall be substituted;
- (xxxvi) in sub-heading No. 5212.25, for the entry in column (4), the entry "35% or Rs. 165 per kg., whichever is higher" shall be substituted;
- (43) in Chapter 53, in sub-heading Nos. 5306.10, 5306.20, 5307.10, 5307.20, 5308.10, 5308.20, 5308.30, 5308.90, 5309.11, 5309.19, 5309.21, 5309.29, 5310.10, 5310.90 and 5311.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

## (44) in Chapter 54,—

- (i) in sub-heading Nos. 5401.10, 5401.20, 5402.10, 5402.20, 5402.31, 5402.32, 5402.33, 5402.39, 5402.41, 5402.42, 5402.43, 5402.49, 5402.51, 5402.52, 5402.59, 5402.61, 5402.62, 5402.69, 5403.10, 5403.20, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42, 5403.49, 5404.10, 5404.90, 5405.00, 5406.10 and 5406.20, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
- (ii) in sub-heading No. 5407.10, for the entry in column (4), the entry "25% or Rs. 115 per kg., whichever is higher" shall be substituted;
- (iii) in sub-heading Nos. 5407.20 and 5407.30, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (iv) in sub-heading No. 5407.41, for the entry in column (4), the entry "25% or Rs. 150 per kg., whichever is higher" shall be substituted;
- (v) in sub-heading Nos. 5407.42, 5407.43 and 5407.44, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 250 per kg., whichever is higher" shall be substituted;
- (vi) in sub-heading No. 5407.51, for the entry in column (4), the entry "30% or Rs. 11 per sq. mtr., whichever is higher" shall be substituted;
- (vii) in sub-heading Nos. 5407.52, 5407.53 and 5407.54, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 225 per kg., whichever is higher" shall be substituted;
- (viii) in sub-heading No. 5407.61, for the entry in column (4), the entry "25%" shall be substituted;
- (ix) in sub-heading No. 5407.69, for the entry in column (4), the entry "35%" shall be substituted;
- (x) in sub-heading No. 5407.71, for the entry in column (4), the entry "25% or Rs. 10 per sq. mtr., whichever is higher" shall be substituted;
- (xi) in sub-heading No. 5407.72, for the entry in column (4), the entry "25% or Rs. 265 per kg., whichever is higher" shall be substituted;
- (xii) in sub-heading No. 5407.73, for the entry in column (4), the entry "30% or Rs. 205 per kg., whichever is higher" shall be substituted;
- (xiii) in sub-heading No. 5407.74, for the entry in column (4), the entry "30% or Rs. 310 per kg., whichever is higher" shall be substituted;
- (xiv) in sub-heading No. 5407.81, for the entry in column (4), the entry "30% or Rs. 10 per sq. mtr., whichever is higher" shall be substituted;
- (xv) in sub-heading Nos. 5407.82, 5407.83 and 5407.84, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 225 per kg., whichever is higher" shall be substituted;
- (xvi) in sub-heading No. 5407.91, for the entry in column (4), the entry "30% or Rs. 15 per sq. mtr., whichever is higher" shall be substituted;
- (xvii) in sub-heading No. 5407.92, for the entry in column (4), the entry "30% or Rs. 225 per kg., whichever is higher" shall be substituted;
- (xviii) in sub-heading No. 5407.93, for the entry in column (4), the entry "30% or Rs. 155 per kg., whichever is higher" shall be substituted;
- (xix) in sub-heading No. 5407.94, for the entry in column (4), the entry "30% or Rs. 225 per kg., whichever is higher" shall be substituted;
- (xx) in sub-heading Nos. 5408.10 and 5408.21, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xxi) in sub-heading Nos. 5408.22, 5408.23 and 5408.24, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 280 per kg., whichever is higher" shall be substituted;

(xxii) in sub-heading No. 5408.31, for the entry in column (4), the entry "30% or Rs. 203 per kg., whichever is higher" shall be substituted;

(xxiii) in sub-heading No. 5408.32, for the entry in column (4), the entry "30% or Rs. 280 per kg., whichever is higher" shall be substituted;

(xxiv) in sub-heading No. 5408.33, for the entry in column (4), the entry "30% or Rs. 10 per sq. mtr., whichever is higher" shall be substituted;

(xxv) in sub-heading No. 5408.34, for the entry in column (4), the entry "30% or Rs. 11 per sq. mtr., whichever is higher" shall be substituted;

(45) in Chapter 55,—

(i) in sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5503.10, 5503.20, 5503.30, 5503.40, 5503.90, 5504.10, 5504.90, 5506.10, 5506.20, 5506.30, 5506.90, 5507.00, 5508.10, 5508.20, 5509.11, 5509.12, 5509.21, 5509.22, 5509.31, 5509.32, 5509.41, 5509.42, 5509.51, 5509.52, 5509.53, 5509.59, 5509.61, 5509.62, 5509.69, 5509.91, 5509.92, 5509.99, 5510.11, 5510.12, 5510.20, 5510.30 and 5510.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(ii) in sub-heading Nos. 5511.10 and 5511.20, for the entry in column (4) occurring against each of them, the entry "20% or Rs. 31 per kg., whichever is higher" shall be substituted;

(iii) in sub-heading No. 5511.30, for the entry in column (4), the entry "20% or Rs. 30 per kg., whichever is higher" shall be substituted;

(iv) in sub-heading No. 5512.11, for the entry in column (4), the entry "35%" shall be substituted;

(v) in sub-heading No. 5512.19, for the entry in column (4), the entry "30% or Rs. 150 per kg., whichever is higher" shall be substituted;

(vi) in sub-heading No. 5512.21, for the entry in column (4), the entry "35%" shall be substituted;

(vii) in sub-heading No. 5512.29, for the entry in column (4), the entry "30% or Rs. 225 per kg., whichever is higher" shall be substituted;

(viii) in sub-heading No. 5512.91, for the entry in column (4), the entry "35%" shall be substituted;

(ix) in sub-heading No. 5512.99, for the entry in column (4), the entry "30% or Rs. 65 per kg., whichever is higher" shall be substituted;

(x) in sub-heading Nos. 5513.11, 5513.12, 5513.13 and 5513.19, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xi) in sub-heading Nos. 5513.21 and 5513.22, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 150 per kg., whichever is higher" shall be substituted;

(xii) in sub-heading No. 5513.23, for the entry in column (4), the entry "35% or Rs. 175 per kg., whichever is higher" shall be substituted;

(xiii) in sub-heading No. 5513.29, for the entry in column (4), the entry "35% or Rs. 185 per kg., whichever is higher" shall be substituted;

(xiv) in sub-heading No. 5513.31, for the entry in column (4), the entry "30% or Rs. 170 per kg., whichever is higher" shall be substituted;

- (xv) in sub-heading No. 5513.32, for the entry in column (4), the entry "35% or Rs. 170 per kg., whichever is higher" shall be substituted;
- (xvi) in sub-heading No. 5513.33, for the entry in column (4), the entry "35% or Rs. 195 per kg., whichever is higher" shall be substituted;
- (xvii) in sub-heading No. 5513.39, for the entry in column (4), the entry "35% or Rs. 175 per kg., whichever is higher" shall be substituted;
- (xviii) in sub-heading No. 5513.41, for the entry in column (4), the entry "30% or Rs. 110 per kg., whichever is higher" shall be substituted;
- (xix) in sub-heading No. 5513.42, for the entry in column (4), the entry "35% or Rs. 150 per kg., whichever is higher" shall be substituted;
- (xx) in sub-heading No. 5513.43, for the entry in column (4), the entry "35% or Rs. 175 per kg., whichever is higher" shall be substituted;
- (xxi) in sub-heading No. 5513.49, for the entry in column (4), the entry "35% or Rs. 185 per kg., whichever is higher" shall be substituted;
- (xxii) in sub-heading Nos. 5514.11, 5514.12, 5514.13 and 5514.19, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxiii) in sub-heading Nos. 5514.21 and 5514.22, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 140 per kg., whichever is higher" shall be substituted;
- (xxiv) in sub-heading No. 5514.23, for the entry in column (4), the entry "35% or Rs. 160 per kg., whichever is higher" shall be substituted;
- (xxv) in sub-heading No. 5514.29, for the entry in column (4), the entry "35% or Rs. 170 per kg., whichever is higher" shall be substituted;
- (xxvi) in sub-heading No. 5514.31, for the entry in column (4), the entry "35% or Rs. 160 per kg., whichever is higher" shall be substituted;
- (xxvii) in sub-heading No. 5514.32, for the entry in column (4), the entry "30% or Rs. 160 per kg., whichever is higher" shall be substituted;
- (xxviii) in sub-heading No. 5514.33, for the entry in column (4), the entry "35% or Rs. 180 per kg., whichever is higher" shall be substituted;
- (xxix) in sub-heading No. 5514.39, for the entry in column (4), the entry "30% or Rs. 170 per kg., whichever is higher" shall be substituted;
- (xxx) in sub-heading No. 5514.41, for the entry in column (4), the entry "30% or Rs. 140 per kg., whichever is higher" shall be substituted;
- (xxxi) in sub-heading No. 5514.42, for the entry in column (4), the entry "35% or Rs. 140 per kg., whichever is higher" shall be substituted;
- (xxxii) in sub-heading No. 5514.43, for the entry in column (4), the entry "35% or Rs. 175 per kg., whichever is higher" shall be substituted;
- (xxxiii) in sub-heading No. 5514.49, for the entry in column (4), the entry "35% or Rs. 160 per kg., whichever is higher" shall be substituted;
- (xxxiv) in sub-heading No. 5515.11, for the entry in column (4), the entry "30% or Rs. 205 per kg., whichever is higher" shall be substituted;
- (xxxv) in sub-heading No. 5515.12, for the entry in column (4), the entry "35% or Rs. 95 per kg., whichever is higher" shall be substituted;
- (xxxvi) in sub-heading No. 5515.13, for the entry in column (4), the entry "35% or Rs. 75 per sq. mtr., whichever is higher" shall be substituted;

- (xxxvii) in sub-heading No. 5515.19, for the entry in column (4), the entry "30% or Rs. 260 per kg., whichever is higher" shall be substituted;
- (xxxviii) in sub-heading No. 5515.21, for the entry in column (4), the entry "35% or Rs. 200 per kg., whichever is higher" shall be substituted;
- (xxxix) in sub-heading No. 5515.22, for the entry in column (4), the entry "35% or Rs. 140 per kg., whichever is higher" shall be substituted;
- (xli) in sub-heading No. 5515.29, for the entry in column (4), the entry "30% or Rs. 200 per kg., whichever is higher" shall be substituted;
- (xlii) in sub-heading No. 5515.91, for the entry in column (4), the entry "35% or Rs. 160 per kg., whichever is higher" shall be substituted;
- (xlii) in sub-heading No. 5515.92, for the entry in column (4), the entry "35% or Rs. 200 per kg., whichever is higher" shall be substituted;
- (xliii) in sub-heading No. 5515.99, for the entry in column (4), the entry "30% or Rs. 185 per kg., whichever is higher" shall be substituted;
- (xliv) in sub-heading No. 5516.11, for the entry in column (4), the entry "35%" shall be substituted;
- (xlv) in sub-heading No. 5516.12, for the entry in column (4), the entry "35% or Rs. 200 per kg., whichever is higher" shall be substituted;
- (xlvi) in sub-heading No. 5516.13, for the entry in column (4), the entry "35% or Rs. 220 per kg., whichever is higher" shall be substituted;
- (xlvii) in sub-heading No. 5516.14, for the entry in column (4), the entry "30% or Rs. 12 per sq. mtr., whichever is higher" shall be substituted;
- (xlviii) in sub-heading Nos. 5516.21, 5516.22 and 5516.23, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xlxi) in sub-heading No. 5516.24, for the entry in column (4), the entry "30% or Rs. 12 per sq. mtr., whichever is higher" shall be substituted;
- (l) in sub-heading Nos. 5516.31, 5516.32, 5516.33, 5516.34, 5516.41 and 5516.42, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (li) in sub-heading Nos. 5516.43 and 5516.44, for the entry in column (4) occurring against each of them, the entry "30% or Rs. 12 per sq. mtr., whichever is higher" shall be substituted;
- (lii) in sub-heading Nos. 5516.91 and 5516.92, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (liii) in sub-heading No. 5516.93, for the entry in column (4), the entry "30% or Rs. 21 per sq. mtr., whichever is higher" shall be substituted;
- (liv) in sub-heading No. 5516.94, for the entry in column (4), the entry "35% or Rs. 180 per kg., whichever is higher" shall be substituted;
- (46) in Chapter 56,—
- (i) in sub-heading No. 5601.10, for the entry in column (4), the entry "35%" shall be substituted;
- (ii) in sub-heading Nos. 5601.21, 5601.22, 5601.29, 5601.30, 5602.10, 5602.21, 5602.29, 5602.90, 5603.11, 5603.12, 5603.13, 5603.14, 5603.91, 5603.92, 5603.93 and 5603.94, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iii) in sub-heading Nos. 5604.10, 5604.20, 5604.90, 5605.00, 5606.00, 5607.10, 5607.21, 5607.29, 5607.30, 5607.41, 5607.49, 5607.50 and 5607.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(iv) in sub-heading Nos. 5608.11, 5608.19, 5608.90 and 5609.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(47) in Chapter 57,—

(i) in sub-heading Nos. 5701.10, 5701.90, 5702.10, 5702.20 and 5702.31, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(ii) in sub-heading No. 5702.32, for the entry in column (4), the entry "35% or Rs. 105 per sq. mtr., whichever is higher" shall be substituted;

(iii) in sub-heading Nos. 5702.39 and 5702.41, for the entries in column (4) occurring against each of them, the entry "35%" shall be substituted;

(iv) in sub-heading No. 5702.42, for the entry in column (4), the entry "35% or Rs. 80 per sq. mtr., whichever is higher" shall be substituted;

(v) in sub-heading Nos. 5702.49 and 5702.51, for the entries in column (4) occurring against each of them, the entry "35%" shall be substituted;

(vi) in sub-heading No. 5702.52, for the entry in column (4), the entry "35% or Rs. 105 per sq. mtr., whichever is higher" shall be substituted;

(vii) in sub-heading Nos. 5702.59 and 5702.91, for the entries in column (4) occurring against each of them, the entry "35%" shall be substituted;

(viii) in sub-heading No. 5702.92, for the entry in column (4), the entry "35% or Rs. 110 per sq. mtr., whichever is higher" shall be substituted;

(ix) in sub-heading Nos. 5702.99 and 5703.10, for the entries in column (4) occurring against each of them, the entry "35%" shall be substituted;

(x) in sub-heading No. 5703.20, for the entry in column (4), the entry "35% or Rs. 70 per sq. mtr., whichever is higher" shall be substituted;

(xi) in sub-heading No. 5703.30, for the entry in column (4), the entry "35% or Rs. 55 per sq. mtr., whichever is higher" shall be substituted;

(xii) in sub-heading Nos. 5703.90 and 5704.10, for the entries in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xiii) in sub-heading No. 5704.90, for the entry in column (4), the entry "35% or Rs. 35 per sq. mtr., whichever is higher" shall be substituted;

(xiv) in sub-heading No. 5705.00, for the entry in column (4), the entry "35%" shall be substituted;

(48) in Chapter 58,—

(i) in sub-heading No. 5801.10, for the entry in column (4), the entry "35% or Rs. 210 per sq. mtr., whichever is higher" shall be substituted;

(ii) in sub-heading No. 5801.21, for the entry in column (4), the entry "35% or Rs. 80 per sq. mtr., whichever is higher" shall be substituted;

(iii) in sub-heading No. 5801.22, for the entry in column (4), the entry "35% or Rs. 75 per sq. mtr., whichever is higher" shall be substituted;

(iv) in sub-heading No. 5801.23, for the entry in column (4), the entry "35% or Rs. 80 per sq. mtr., whichever is higher" shall be substituted;

(v) in sub-heading No. 5801.24, for the entry in column (4), the entry "35% or Rs. 135 per sq. mtr., whichever is higher" shall be substituted;

- (vi) in sub-heading No. 5801.25, for the entry in column (4), the entry "35% or Rs. 120 per sq. mtr., whichever is higher" shall be substituted;
- (vii) in sub-heading No. 5801.26, for the entry in column (4), the entry "35% or Rs. 180 per sq. mtr., whichever is higher" shall be substituted;
- (viii) in sub-heading No. 5801.31, for the entry in column (4), the entry "35% or Rs. 75 per sq. mtr., whichever is higher" shall be substituted;
- (ix) in sub-heading No. 5801.32, for the entry in column (4), the entry "35% or Rs. 180 per sq. mtr., whichever is higher" shall be substituted;
- (x) in sub-heading No. 5801.33, for the entry in column (4), the entry "35% or Rs. 150 per sq. mtr., whichever is higher" shall be substituted;
- (xi) in sub-heading No. 5801.34, for the entry in column (4), the entry "35% or Rs. 140 per sq. mtr., whichever is higher" shall be substituted;
- (xii) in sub-heading No. 5801.35, for the entry in column (4), the entry "25% or Rs. 130 per sq. mtr., whichever is higher" shall be substituted;
- (xiii) in sub-heading No. 5801.36, for the entry in column (4), the entry "35% or Rs. 130 per sq. mtr., whichever is higher" shall be substituted;
- (xiv) in sub-heading No. 5801.90, for the entry in column (4), the entry "35% or Rs. 35 per sq. mtr., whichever is higher" shall be substituted;
- (xv) in sub-heading No. 5802.19, for the entry in column (4), the entry "25% or Rs. 60 per sq. mtr., whichever is higher" shall be substituted;
- (xvi) in sub-heading Nos. 5802.20, 5802.30, 5803.10 and 5803.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xvii) in sub-heading Nos. 5804.10, 5804.21, 5804.29 and 5804.30, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 200 per kg., whichever is higher" shall be substituted;
- (xviii) in sub-heading Nos. 5805.00, 5806.10, 5806.20 and 5806.31, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xix) in sub-heading No. 5806.32, for the entry in column (4), the entry "25%" shall be substituted;
- (xx) in sub-heading Nos. 5806.39 and 5806.40, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxi) in sub-heading Nos. 5807.10 and 5807.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (xxii) in sub-heading No. 5808.10, for the entry in column (4), the entry "35%" shall be substituted;
- (xxiii) in sub-heading Nos. 5808.90 and 5809.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (xxiv) in sub-heading No. 5810.10, for the entry in column (4), the entry "35% or Rs. 200 per kg., whichever is higher" shall be substituted;
- (xxv) in sub-heading Nos. 5810.91, 5810.92, 5810.99 and 5811.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (49) in Chapter 59,—
  - (i) in sub-heading Nos. 5901.10, 5901.90, 5902.10, 5902.20, 5902.90, 5903.10, 5903.20 and 5903.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 5904.10, 5904.91, 5904.92, 5905.00, 5906.10, 5906.91, 5906.99, 5907.00, 5908.00 and 5909.00, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(iii) in sub-heading Nos. 5910.00 and 5911.10, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iv) in sub-heading Nos. 5911.20, 5911.31, 5911.32, 5911.40 and 5911.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(50) in Chapter 60,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6001.92, 6002.42 and 6002.43), the entry "35%" shall be substituted;

(ii) in sub-heading No. 6001.92, for the entry in column (4), the entry "25% or Rs. 100 per kg., whichever is higher" shall be substituted;

(iii) in sub-heading Nos. 6002.42 and 6002.43, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(51) in Chapter 61,—

(i) in sub-heading No. 6101.10, for the entry in column (4), the entry "35% or Rs. 700 per piece, whichever is higher" shall be substituted;

(ii) in sub-heading No. 6101.20, for the entry in column (4), the entry "35% or Rs. 540 per piece, whichever is higher" shall be substituted;

(iii) in sub-heading No. 6101.30, for the entry in column (4), the entry "35% or Rs. 530 per piece, whichever is higher" shall be substituted;

(iv) in sub-heading No. 6101.90, for the entry in column (4), the entry "35%" shall be substituted;

(v) in sub-heading No. 6102.10, for the entry in column (4), the entry "35% or Rs. 595 per piece, whichever is higher" shall be substituted;

(vi) in sub-heading No. 6102.20, for the entry in column (4), the entry "35% or Rs. 425 per piece, whichever is higher" shall be substituted;

(vii) in sub-heading No. 6102.30, for the entry in column (4), the entry "35% or Rs. 475 per piece, whichever is higher" shall be substituted;

(viii) in sub-heading Nos. 6102.90, 6103.11, 6103.12, 6103.19, 6103.21, 6103.22, 6103.23, 6103.29, 6103.31, 6103.32, 6103.33, 6103.39, 6103.41, 6103.42, 6103.43, 6103.49, 6104.11, 6104.12 and 6104.13, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(ix) in sub-heading No. 6104.19, for the entry in column (4), the entry "35% or Rs. 900 per piece, whichever is higher" shall be substituted;

(x) in sub-heading Nos. 6104.21, 6104.22, 6104.23, 6104.29, 6104.31, 6104.32, 6104.33 and 6104.39, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xi) in sub-heading No. 6104.41, for the entry in column (4), the entry "35% or Rs. 255 per piece, whichever is higher" shall be substituted;

(xii) in sub-heading No. 6104.42, for the entry in column (4), the entry "35%" shall be substituted;

(xiii) in sub-heading Nos. 6104.43 and 6104.44, for the entry in column (4)

occurring against each of them, the entry "35% or Rs. 255 per piece, whichever is higher" shall be substituted;

(xiv) in sub-heading No. 6104.49, for the entry in column (4), the entry "35% or Rs. 220 per piece, whichever is higher" shall be substituted;

(xv) in sub-heading Nos. 6104.51, 6104.52, 6104.53 and 6104.59, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xvi) in sub-heading No. 6104.61, for the entry in column (4), the entry "35%" shall be substituted;

(xvii) in sub-heading Nos. 6104.62 and 6104.63, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 315 per piece, whichever is higher" shall be substituted;

(xviii) in sub-heading No. 6104.69, for the entry in column (4), the entry "35%" shall be substituted;

(xix) in sub-heading Nos. 6105.10, 6105.20 and 6105.90, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 135 per piece, whichever is higher" shall be substituted;

(xx) in sub-heading No. 6106.10, for the entry in column (4), the entry "35% or Rs. 125 per piece, whichever is higher" shall be substituted;

(xxi) in sub-heading No. 6106.20, for the entry in column (4), the entry "35% or Rs. 25 per piece, whichever is higher" shall be substituted;

(xxii) in sub-heading No. 6106.90, for the entry in column (4), the entry "35% or Rs. 135 per piece, whichever is higher" shall be substituted;

(xxiii) in sub-heading Nos. 6107.11 and 6107.12, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 30 per piece, whichever is higher" shall be substituted;

(xxiv) in sub-heading Nos. 6107.19, 6107.21, 6107.22, 6107.29, 6107.91, 6107.92, 6107.99, 6108.11 and 6108.19, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xxv) in sub-heading Nos. 6108.21 and 6108.22, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 30 per piece, whichever is higher" shall be substituted;

(xxvi) in sub-heading Nos. 6108.29, 6108.31, 6108.32 and 6108.39, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xxvii) in sub-heading Nos. 6108.91 and 6108.92, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xxviii) in sub-heading No. 6108.99, for the entry in column (4), the entry "35%" shall be substituted;

(xxix) in sub-heading No. 6109.10, for the entry in column (4), the entry "35% or Rs. 70 per piece, whichever is higher" shall be substituted;

(xxx) in sub-heading No. 6109.90, for the entry in column (4), the entry "35% or Rs. 130 per piece, whichever is higher" shall be substituted;

(xxxi) in sub-heading No. 6110.10, for the entry in column (4), the entry "35% or Rs. 275 per piece, whichever is higher" shall be substituted;

(xxxii) in sub-heading No. 6110.20, for the entry in column (4), the entry "35% or Rs. 205 per piece, whichever is higher" shall be substituted;

(xxxiii) in sub-heading No. 6110.30, for the entry in column (4), the entry "35% or Rs. 270 per piece, whichever is higher" shall be substituted;

(xxxiv) in sub-heading No. 6110.90, for the entry in column (4), the entry "35% or Rs. 275 per piece, whichever is higher" shall be substituted;

(xxxv) in sub-heading Nos. 6111.10, 6111.20, 6111.30, 6111.90, 6112.11, 6112.12, 6112.19, 6112.20, 6112.31, 6112.39, 6112.41, 6112.49, 6113.00, 6114.10, 6114.20, 6114.30, 6114.90, 6115.11, 6115.12, 6115.19, 6115.20, 6115.91, 6115.92, 6115.93, 6115.99, 6116.10, 6116.91, 6116.92, 6116.93, 6116.99, 6117.10, 6117.20, 6117.80 and 6117.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(52) in Chapter 62,—

(i) in sub-heading Nos. 6201.11, 6201.12 and 6201.13, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 385 per piece, whichever is higher" shall be substituted;

(ii) in sub-heading No. 6201.19, for the entry in column (4), the entry "35%" shall be substituted;

(iii) in sub-heading Nos. 6201.91, 6201.92 and 6201.93, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 220 per piece, whichever is higher" shall be substituted;

(iv) in sub-heading No. 6201.99, for the entry in column (4), the entry "35%" shall be substituted;

(v) in sub-heading Nos. 6202.11, 6202.12 and 6202.13, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 385 per piece, whichever is higher" shall be substituted;

(vi) in sub-heading No. 6202.19, for the entry in column (4), the entry "35%" shall be substituted;

(vii) in sub-heading Nos. 6202.91, 6202.92 and 6202.93, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 220 per piece, whichever is higher" shall be substituted;

(viii) in sub-heading No. 6202.99, for the entry in column (4), the entry "35%" shall be substituted;

(ix) in sub-heading No. 6203.11, for the entry in column (4), the entry "35% or Rs. 1100 per piece, whichever is higher" shall be substituted;

(x) in sub-heading No. 6203.12, for the entry in column (4), the entry "35% or Rs. 720 per piece, whichever is higher" shall be substituted;

(xi) in sub-heading No. 6203.19, for the entry in column (4), the entry "35% or Rs. 1110 per piece, whichever is higher" shall be substituted;

(xii) in sub-heading Nos. 6203.21, 6203.22, 6203.23 and 6203.29, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 145 per piece, whichever is higher" shall be substituted;

(xiii) in sub-heading No. 6203.31, for the entry in column (4), the entry "35% or Rs. 815 per piece, whichever is higher" shall be substituted;

(xiv) in sub-heading No. 6203.32, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 450 per piece, whichever is higher" shall be substituted;

- (xv) in sub-heading No. 6203.33, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 815 per piece, whichever is higher" shall be substituted;
- (xvi) in sub-heading No. 6203.39, for the entry in column (4), the entry "35% or Rs. 765 per piece, whichever is higher" shall be substituted;
- (xvii) in sub-heading No. 6203.41, for the entry in column (4), the entry "35% or Rs. 285 per piece, whichever is higher" shall be substituted;
- (xviii) in sub-heading No. 6203.42, for the entry in column (4), the entry "35% or Rs. 235 per piece, whichever is higher" shall be substituted;
- (xix) in sub-heading Nos. 6203.43 and 6203.49, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 200 per piece, whichever is higher" shall be substituted;
- (xx) in sub-heading No. 6204.11, for the entry in column (4), the entry "35% or Rs. 1100 per piece, whichever is higher" shall be substituted;
- (xxi) in sub-heading No. 6204.12, for the entry in column (4), the entry "35%" shall be substituted;
- (xxii) in sub-heading Nos. 6204.13 and 6204.19, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 1100 per piece, whichever is higher" shall be substituted;
- (xxiii) in sub-heading Nos. 6204.21, 6204.22, 6204.23 and 6204.29, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxiv) in sub-heading No. 6204.31, for the entry in column (4), the entry "35% or Rs. 815 per piece, whichever is higher" shall be substituted;
- (xxv) in sub-heading No. 6204.32, for the entry in column (4), the entry "35% or Rs. 660 per piece, whichever is higher" shall be substituted;
- (xxvi) in sub-heading Nos. 6204.33 and 6204.39, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 815 per piece, whichever is higher" shall be substituted;
- (xxvii) in sub-heading Nos. 6204.41, 6204.42, 6204.43, 6204.44 and 6204.49, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 145 per piece, whichever is higher" shall be substituted;
- (xxviii) in sub-heading No. 6204.51, for the entry in column (4), the entry "35% or Rs. 485 per piece, whichever is higher" shall be substituted;
- (xxix) in sub-heading Nos. 6204.52, 6204.53 and 6204.59, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xxx) in sub-heading No. 6204.61, for the entry in column (4), the entry "35% or Rs. 285 per piece, whichever is higher" shall be substituted;
- (xxxi) in sub-heading No. 6204.62, for the entry in column (4), the entry "35% or Rs. 215 per piece, whichever is higher" shall be substituted;
- (xxxii) in sub-heading No. 6204.63, for the entry in column (4), the entry "35%" shall be substituted;
- (xxxiii) in sub-heading Nos. 6204.69 and 6205.10, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 200 per piece, whichever is higher" shall be substituted;
- (xxxiv) in sub-heading Nos. 6205.20, 6205.30 and 6205.90, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 135 per piece, whichever is higher" shall be substituted;

(xxxv) in sub-heading No. 6206.10, for the entry in column (4), the entry "35%" shall be substituted;

(xxxvi) in sub-heading Nos. 6206.20, 6206.30 and 6206.40, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 135 per piece, whichever is higher" shall be substituted;

(xxxvii) in sub-heading No. 6206.90, for the entry in column (4), the entry "35%" shall be substituted;

(xxxviii) in sub-heading Nos. 6207.11 and 6207.19, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 160 per piece, whichever is higher" shall be substituted;

(xxxix) in sub-heading Nos. 6207.21, 6207.22, 6207.29, 6207.91 and 6207.92, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xl) in sub-heading No. 6207.99, for the entry in column (4), the entry "35% or Rs. 160 per piece, whichever is higher" shall be substituted;

(xli) in sub-heading Nos. 6208.11 and 6208.19, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 160 per piece, whichever is higher" shall be substituted;

(xlii) in sub-heading Nos. 6208.21, 6208.22 and 6208.29, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xliii) in sub-heading Nos. 6208.91 and 6208.92, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 160 per piece, whichever is higher" shall be substituted;

(xliv) in sub-heading Nos. 6208.99, 6209.10, 6209.20, 6209.30, 6209.90 and 6210.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xlv) in sub-heading No. 6210.20, for the entry in column (4), the entry "35% or Rs. 365 per piece, whichever is higher" shall be substituted;

(xlii) in sub-heading No. 6210.30, for the entry in column (4), the entry "35% or Rs. 305 per piece, whichever is higher" shall be substituted;

(xlvii) in sub-heading Nos. 6210.40 and 6210.50, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 110 per piece, whichever is higher" shall be substituted;

(xlviii) in sub-heading Nos. 6211.11, 6211.12, 6211.20 and 6211.31, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xlix) in sub-heading Nos. 6211.32 and 6211.33, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 135 per piece, whichever is higher" shall be substituted;

(l) in sub-heading Nos. 6211.39 and 6211.41, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(li) in sub-heading Nos. 6211.42 and 6211.43, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 135 per piece, whichever is higher" shall be substituted;

(lii) in sub-heading No. 6211.49, for the entry in column (4), the entry "35%" shall be substituted;

(iii) in sub-heading Nos. 6212.10, 6212.20, 6212.30 and 6212.90, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 30 per piece, whichever is higher" shall be substituted;

(iv) in sub-heading Nos. 6213.10, 6213.20 and 6213.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(v) in sub-heading No. 6214.10, for the entry in column (4), the entry "35% or Rs. 400 per piece, whichever is higher" shall be substituted;

(vi) in sub-heading No. 6214.20, for the entry in column (4), the entry "35% or Rs. 180 per piece, whichever is higher" shall be substituted;

(vii) in sub-heading Nos. 6214.30 and 6214.40, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(viii) in sub-heading No. 6214.90, for the entry in column (4), the entry "35% or Rs. 75 per piece, whichever is higher" shall be substituted;

(ix) in sub-heading Nos. 6215.10, 6215.20 and 6215.90, for the entry in column (4) occurring against each of them, the entry "35% or Rs. 55 per piece, whichever is higher" shall be substituted;

(x) in sub-heading Nos. 6216.00, 6217.10 and 6217.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(53) in Chapter 63,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6301.20, 6302.21, 6302.31, 6310.10 and 6310.90), the entry "35%" shall be substituted;

(ii) in sub-heading No. 6301.20, for the entry in column (4), the entry "35% or Rs. 285 per piece, whichever is higher" shall be substituted;

(iii) in sub-heading No. 6302.21, for the entry in column (4), the entry "35% or Rs. 108 per kg., whichever is higher" shall be substituted;

(iv) in sub-heading No. 6302.31, for the entry in column (4), the entry "35% or Rs. 96 per kg., whichever is higher" shall be substituted;

(54) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(55) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(56) in Chapter 66, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(57) in Chapter 67, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(58) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6806.10, 6806.20 and 6806.90), the entry "35%" shall be substituted;

(59) in Chapter 69, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6902.10, 6902.20, 6902.90, 6903.10, 6903.20 and 6903.90), the entry "35%" shall be substituted;

(60) in Chapter 70, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

(61) in Chapter 71, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;

- (62) in Chapter 72, in sub-heading Nos. 7201.10, 7201.20 and 7201.50, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (63) in Chapter 75, in sub-heading Nos. 7508.10 and 7508.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (64) in Chapter 76, in sub-heading Nos. 7615.11, 7615.19 and 7615.20, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (65) in Chapter 80, in sub-heading No. 8007.00, for the entry in column (4), the entry "35%" shall be substituted;
- (66) in Chapter 82, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (67) in Chapter 83, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (68) in Chapter 84,—
- (i) in sub-heading Nos. 8414.51, 8414.59, 8415.10, 8415.20, 8415.81, 8415.82, 8415.83, 8415.90, 8418.21, 8418.22, 8418.29, 8418.91, 8418.99, 8422.11, 8422.19, 8422.90, 8423.10, 8448.19, 8450.11, 8450.12, 8450.19, 8450.90 and 8452.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (ii) in sub-heading Nos. 8452.30 and 8452.40, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
  - (iii) in sub-heading No. 8452.90, for the entry in column (4), the entry "35%" shall be substituted;
  - (iv) in sub-heading No. 8469.11, for the entry in column (4), the entry "20%" shall be substituted;
  - (v) in sub-heading Nos. 8469.12, 8469.20 and 8469.30, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (vi) in sub-heading Nos. 8470.10, 8470.21, 8470.29, 8470.30, 8470.40, 8470.50 and 8470.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
  - (vii) in sub-heading Nos. 8471.10, 8471.30, 8471.41, 8471.49, 8471.50 and 8471.60, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;
  - (viii) in sub-heading No. 8471.70, for the entry in column (4), the entry "Free" shall be substituted;
  - (ix) in sub-heading Nos. 8471.80 and 8471.90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;
  - (x) in sub-heading Nos. 8472.10, 8472.20, 8472.30, 8472.90 and 8473.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (xi) in sub-heading Nos. 8473.21 and 8473.29, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
  - (xii) in sub-heading No. 8473.30, for the entry in column (4), the entry "15%" shall be substituted;
  - (xiii) in sub-heading No. 8473.40, for the entry in column (4), the entry "35%" shall be substituted;

(xiv) in sub-heading No. 8473.50, for the entry in column (4), the entry "15%" shall be substituted;

(xv) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91, 8482.99 and 8483.20, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(69) in Chapter 85,—

(i) in sub-heading Nos. 8504.10, 8506.10, 8506.30, 8506.40, 8506.50, 8506.60, 8506.80, 8506.90, 8507.10, 8507.20, 8507.30, 8507.40, 8507.80, 8507.90, 8509.10, 8509.20, 8509.30, 8509.40, 8509.80, 8509.90, 8510.10, 8510.20, 8510.30, 8510.90, 8511.10, 8511.20, 8511.30, 8511.40, 8511.50, 8511.80, 8511.90, 8512.10, 8512.20, 8512.30, 8512.40, 8512.90, 8513.10, 8513.90, 8516.10, 8516.21, 8516.29, 8516.31, 8516.32, 8516.33, 8516.40, 8516.50, 8516.60, 8516.71, 8516.72, 8516.79 and 8516.80, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 8517.11, 8517.19, 8517.21 and 8517.22, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iii) in sub-heading No. 8517.90, for the entry in column (4), the entry "15%" shall be substituted;

(iv) in sub-heading Nos. 8518.10, 8518.21, 8518.22, 8518.29, 8518.30, 8518.40, 8518.50, 8519.10, 8519.21, 8519.29, 8519.31, 8519.39, 8519.40, 8519.92, 8519.93, 8519.99 and 8520.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(v) in sub-heading No. 8520.20, for the entry in column (4), the entry "20%" shall be substituted;

(vi) in sub-heading Nos. 8520.32, 8520.33, 8520.39, 8520.90, 8521.10, 8521.90 and 8522.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(vii) in sub-heading Nos. 8523.11, 8523.12, 8523.13 and 8523.20, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(viii) in sub-heading Nos. 8523.30, 8524.10, 8524.32, 8524.39, 8524.51, 8524.52, 8524.53, 8524.60, 8524.99, 8525.30, 8525.40, 8526.10, 8526.91, 8526.92, 8527.12, 8527.13, 8527.19, 8527.21, 8527.29, 8527.31, 8527.32, 8527.39, 8528.12, 8528.13, 8528.21, 8528.22, 8528.30 and 8531.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(ix) in sub-heading No. 8531.20, for the entry in column (4), the entry "20%" shall be substituted;

(x) in sub-heading Nos. 8531.80, 8531.90 and 8532.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(xi) in sub-heading No. 8532.21, for the entry in column (4), the entry "Free" shall be substituted;

(xii) in sub-heading Nos. 8532.22 and 8532.23, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(xiii) in sub-heading No. 8532.24, for the entry in column (4), the entry "Free" shall be substituted;

(xiv) in sub-heading Nos. 8532.25, 8532.29 and 8532.30, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(xv) in sub-heading Nos. 8532.90 and 8533.90, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

- (xvi) in sub-heading Nos. 8535.10, 8535.21, 8535.29, 8535.30, 8535.40 and 8535.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (xvii) in sub-heading Nos. 8539.10, 8539.21, 8539.22, 8539.29, 8539.31, 8539.32, 8539.39, 8539.41, 8539.49 and 8539.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (xviii) in sub-heading Nos. 8540.40, 8541.90, 8542.12, 8542.13, 8542.14, 8542.19, 8542.30, 8542.40, 8542.50 and 8542.90, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;
- (xix) in sub-heading No. 8543.81, for the entry in column (4), the entry "20%" shall be substituted;
- (xx) in sub-heading Nos. 8544.11, 8544.19, 8544.20, 8544.30, 8544.41, 8544.49, 8544.51, 8544.59 and 8544.60, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (70) in Chapter 86, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8607.11, 8607.12, 8607.19, 8607.21, 8607.29, 8607.30, 8607.91, 8607.99 and 8608.00), the entry "35%" shall be substituted;
- (71) in Chapter 87, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8710.00), the entry "35%" shall be substituted;
- (72) in Chapter 88,—
- (i) in sub-heading No. 8801.10, for the entry in column (4), the entry "25%" shall be substituted;
  - (ii) in sub-heading No. 8801.90, for the entry in column (4), the entry "35%" shall be substituted;
  - (iii) in sub-heading Nos. 8802.11 and 8802.12, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
  - (iv) in sub-heading Nos. 8802.60, 8803.90, 8804.00, 8805.10 and 8805.20, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (73) in Chapter 89,—
- (i) in sub-heading Nos. 8901.10, 8901.20, 8901.30 and 8901.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (ii) in sub-heading No. 8902.00, for the entry in column (4), the entry "25%" shall be substituted;
  - (iii) in sub-heading Nos. 8903.10, 8903.91, 8903.92 and 8903.99, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
  - (iv) in sub-heading Nos. 8904.00 and 8905.10, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
  - (v) in sub-heading No. 8905.20, for the entry in column (4), the entry "35%" shall be substituted;
  - (vi) in sub-heading Nos. 8905.90 and 8906.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
  - (vii) in sub-heading Nos. 8907.10 and 8907.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (74) in Chapter 90,—

- (i) in sub-heading Nos. 9001.10, 9001.20, 9001.30, 9001.40, 9001.50, 9001.90, 9002.11, 9002.19, 9002.20, 9002.90, 9003.11, 9003.19, 9003.90, 9004.10, 9004.90, 9005.10, 9005.80, 9005.90, 9006.10, 9006.20, 9006.30, 9006.40, 9006.51, 9006.52, 9006.53, 9006.59, 9006.61, 9006.62 and 9006.69, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (ii) in sub-heading Nos. 9007.11, 9007.19 and 9007.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (iii) in sub-heading Nos. 9008.10, 9008.20, 9008.30, 9008.40, 9009.11, 9009.12, 9009.21, 9009.22 and 9009.30, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (iv) in sub-heading No. 9010.10, for the entry in column (4), the entry "25%" shall be substituted;
- (v) in sub-heading Nos. 9010.41, 9010.42 and 9010.49, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;
- (vi) in sub-heading No. 9010.50, for the entry in column (4), the entry "25%" shall be substituted;
- (vii) in sub-heading No. 9010.60, for the entry in column (4), the entry "35%" shall be substituted;
- (viii) in sub-heading Nos. 9022.19, 9022.29, 9022.30 and 9022.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (ix) in sub-heading Nos. 9026.20, 9026.80, 9026.90, 9027.20, 9027.30, 9027.50 and 9027.80, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;
- (x) in sub-heading No. 9030.40, for the entry in column (4), the entry "20%" shall be substituted;
- (xi) in sub-heading No. 9030.82, for the entry in column (4), the entry "Free" shall be substituted;
- (75) in Chapter 91, in sub-heading Nos. 9101.11, 9101.12, 9101.19, 9101.21, 9101.29, 9101.91, 9101.99, 9102.11, 9102.12, 9102.19, 9102.21, 9102.29, 9102.91, 9102.99, 9103.10, 9103.90, 9104.00, 9105.11, 9105.19, 9105.21, 9105.29, 9105.91, 9105.99, 9106.10, 9106.20, 9106.90, 9107.00, 9111.10, 9111.90 and 9113.10, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;
- (76) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (77) in Chapter 94, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (78) in Chapter 95, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 9506.11, 9506.12, 9506.19, 9506.21, 9506.29, 9506.31, 9506.32, 9506.39, 9506.40, 9506.51, 9506.59, 9506.61, 9506.62, 9506.69, 9506.70, 9506.91, 9506.99, 9507.10, 9507.20, 9507.30 and 9507.90), the entry "35%" shall be substituted;
- (79) in Chapter 96, for the entry in column (4) occurring against all the sub-heading Nos., the entry "35%" shall be substituted;
- (80) in Chapter 97, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 9704.00), the entry "35%" shall be substituted;
- (81) in Chapter 98, in sub-heading Nos. 9804.90, 9805.10, and 9805.90, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

## THE THIRD SCHEDULE

[See section 113(i)]

## PART I

In the First Schedule to the Central Excise Tariff Act,—

- (1) in Chapter 11, in sub-heading No. 1103.00, for the entry in column (4), the entry “16%” shall be substituted;
- (2) in Chapter 13, in sub-heading No. 1301.10, for the entry in column (4), the entry “16%” shall be substituted;
- (3) in Chapter 16, in sub-heading No. 1601.10, for the entry in column (4), the entry “16%” shall be substituted;
- (4) in Chapter 17, in sub-heading Nos. 1702.19, 1702.21, 1702.29, 1702.30 and 1704.90, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;
- (5) in Chapter 19, in sub-heading Nos. 1905.11, 1905.20 and 1905.39, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;
- (6) in Chapter 20, in sub-heading No. 2001.10, for the entry in column (4), the entry “16%” shall be substituted;
- (7) in Chapter 21,—
  - (i) in sub-heading No. 2101.30, for the entry in column (4), the entry “Nil” shall be substituted;
  - (ii) in sub-heading Nos. 2103.10, 2104.10, 2106.00 and 2108.10, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;
- (8) in Chapter 22, in sub-heading Nos. 2201.20, 2202.20 and 2202.40, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;
- (9) in Chapter 24,—
  - (i) in sub-heading No. 2401.90, for the entry in column (4), the entry “16%” shall be substituted;
  - (ii) in sub-heading No. 2403.11, for the entry in column (4), the entry “Rs. 78 per thousand” shall be substituted;
  - (iii) in sub-heading No. 2403.12, for the entry in column (4), the entry “Rs. 265 per thousand” shall be substituted;
  - (iv) in sub-heading No. 2403.13, for the entry in column (4), the entry “Rs. 395 per thousand” shall be substituted;
  - (v) in sub-heading No. 2403.14, for the entry in column (4), the entry “Rs. 645 per thousand” shall be substituted;
  - (vi) in sub-heading No. 2403.15, for the entry in column (4), the entry “Rs. 860 per thousand” shall be substituted;
  - (vii) in sub-heading No. 2403.19, for the entry in column (4), the entry “Rs. 1050 per thousand” shall be substituted;
  - (viii) in sub-heading Nos. 2404.40, 2404.50 and 2404.99, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(10) in Chapter 25,—

(i) in sub-heading Nos. 2502.21, 2502.30, 2502.40, 2502.50 and 2502.90, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(ii) in sub-heading Nos. 2504.21 and 2504.31, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(11) in Chapter 26, for the entry in column (4) occurring against all the sub-heading Nos. the entry “16%” shall be substituted;

(12) in Chapter 27,—

(i) after NOTE 8, the following NOTE shall be inserted, namely:—

“9. In relation to lubricating oils and lubricating preparations of heading No. 27.10, labeling or relabeling of containers and repacking from bulk pack to retail packs or the adoption of any other treatment to render the product marketable to the consumer shall amount to ‘manufacture’.”;

(ii) in sub-heading Nos. 2708.11, 2708.19, 2708.20, 2710.11, 2710.12, 2710.13, 2710.19, 2711.11, 2711.12, 2711.19 and 2711.29, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(13) in Chapter 28,—

(i) in sub-heading No. 2804.11, for the entry in column (4), the entry “Nil” shall be substituted;

(ii) in sub-heading No. 2833.10, for the entry in column (4), the entry “16%” shall be substituted;

(iii) in sub-heading No. 2847.11, for the entry in column (4), the entry “Nil” shall be substituted;

(14) in Chapter 30, in sub-heading Nos. 3003.20 and 3003.39, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(15) in Chapter 32, in sub-heading No. 3201.00, for the entry in column (4), the entry “16%” shall be substituted;

(16) in Chapter 33, in sub-heading Nos. 3304.00, 3305.99, 3306.10, 3307.10, 3307.20, 3307.39, 3307.50 and 3307.90, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(17) in Chapter 34, in sub-heading No. 3401.11, for the entry in column (4), the entry “16%” shall be substituted;

(18) in Chapter 38, in sub-heading Nos. 3808.10, 3808.20 and 3823.00, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(19) in Chapter 39, in all the sub-heading Nos. (except sub-heading Nos. 3903.20, 3903.30, 3905.10, 3905.20, 3905.90, 3906.10, 3906.20, 3906.90, 3907.10, 3907.20, 3907.30, 3907.40, 3907.50, 3907.60, 3907.70, 3907.80, 3907.91, 3907.99, 3908.10, 3908.90, 3909.10, 3909.20, 3909.30, 3909.40, 3909.51, 3909.52, 3909.59, 3909.60, 3910.00, 3911.10, 3911.20, 3911.90, 3912.11, 3912.12, 3912.20, 3912.31, 3912.39, 3912.90, 3913.10, 3913.20, 3913.30, 3913.90, 3914.00, 3916.10, 3923.10 and 3924.10) for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(20) in Chapter 40, in sub-heading Nos. 4006.10, 4008.19, 4008.22, 4010.10, 4010.90, 4011.90, 4012.11, 4012.19, 4012.90, 4013.90 and 4016.11, for the entry in column (4) occurring against each of them, the entry “16%” shall be substituted;

(21) in Chapter 43, in sub-heading No. 4301.00, for the entry in column (4), the entry "16%" shall be substituted;

(22) in Chapter 44, in sub-heading Nós. 4406.10, 4406.20, 4406.30, 4406.90, 4407.10 and 4407.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(23) in Chapter 48,—

(i) in sub-heading Nos. 4804.20 and 4811.31, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 4818.10, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(iii) in sub-heading Nos. 4823.30 and 4823.40, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(24) in Chapter 51, in sub-heading Nos. 5105.10, 5105.21, 5105.29, 5105.30, 5105.40, 5106.11, 5106.12, 5106.13, 5107.11 and 5107.12, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(25) in Chapter 52, in sub-heading Nos. 5204.10, 5207.10, 5207.21, 5207.22, 5207.23, 5207.29, 5208.10, 5208.21, 5208.22, 5208.23, 5208.29, 5209.10, 5209.21, 5209.22, 5209.23 and 5209.29, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(26) in Chapter 53,—

(i) in sub-heading Nos. 5307.11, 5307.12 and 5308.11, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(ii) in sub-heading Nos. 5309.10, 5309.21, 5309.22, 5309.23, 5309.29, 5310.10, 5310.21, 5310.22, 5310.23 and 5310.29, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(27) in Chapter 54, in sub-heading Nos. 5402.10, 5402.20, 5402.31, 5402.32, 5402.41, 5402.42, 5402.43, 5402.51, 5402.52, 5402.61, 5402.62, 5406.10, 5406.21, 5406.22, 5406.23, 5406.29, 5407.10, 5407.21, 5407.22, 5407.23 and 5407.29, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(28) in Chapter 55, in sub-heading Nos. 5505.10, 5511.10, 5511.21, 5511.22, 5511.23, 5511.29, 5512.10, 5512.21, 5512.22, 5512.23, 5512.29, 5513.10, 5513.21, 5513.22, 5513.23, 5513.29, 5514.10, 5514.21, 5514.22, 5514.23 and 5514.29, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(29) in Chapter 56, in sub-heading Nos. 5601.10 and 5607.10, for the entry in column (4), the entry "Nil" shall be substituted;

(30) in Chapter 57, in sub-heading Nos. 5702.19 and 5703.90, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(31) in Chapter 58, in sub-heading Nos. 5801.21, 5801.22, 5801.31, 5801.32, 5802.21, 5802.22, 5802.31, 5802.32, 5803.00, 5805.11, 5805.19, 5806.31 and 5806.32, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(32) in Chapter 59, in sub-heading Nos. 5901.10, 5901.90, 5904.10, 5904.91, 5904.92, 5905.00, 5907.90 and 5910.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(33) in Chapter 60, in sub-heading Nos. 6001.11, 6001.12, 6001.21, 6001.22, 6001.91, 6001.92, 6002.30, 6002.42, 6002.43, 6002.92 and 6002.93, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(34) in Chapter 63, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 6307.10), the entry "16%" shall be substituted;

(35) in Chapter 66, in sub-heading No. 6601.00, for the entry in column (4), the entry "Nil" shall be substituted;

(36) in Chapter 68, in sub-heading Nos. 6807.10 and 6807.20, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(37) in Chapter 69, in sub heading No. 6906.10, for the entry in column (4), the entry "16%" shall be substituted;

(38) in Chapter 70, in sub-heading No. 7015.00, for the entry in column (4), the entry "16%" shall be substituted;

(39) in Chapter 73, in sub-heading No. 7323.10, for the entry in column (4), the entry "16%" shall be substituted;

(40) in Chapter 76, in sub-heading No. 7615.20, for the entry in column (4), the entry "16%" shall be substituted;

(41) in Chapter 82, in sub-heading No. 8215.00, for the entry in column (4), the entry "Nil" shall be substituted;

(42) in Chapter 84, in sub-heading Nos. 8414.30, 8414.92, 8415.00, 8418.90, 8434.10, 8434.90, 8452.19, 8476.91, 8481.10 and 8481.91, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(43) in Chapter 85,—

(i) in sub-heading Nos. 8527.10 and 8536.10, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 8539.10, for the entry in column (4), the entry "Nil" shall be substituted;

(44) in Chapter 87,—

(i) after NOTE 5, the following NOTE shall be inserted, namely:—

"6. For the purposes of this Chapter, 'station wagons' means vehicles which may be used, without structural alteration, for the transportation of both persons and goods."

(ii) in sub-heading Nos. 8701.10, 8704.90, 8706.11, 8706.21, 8706.39, 8706.49, 8711.20 and 8711.90, for the entry in column(4) occurring against each of them, the entry "16%" shall be substituted;

(45) in Chapter 89,—

(i) in all the sub-heading Nos. (except sub-heading Nos. 8903.00, 8907.00 and 8908.00), for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(ii) in sub-heading Nos. 8903.00 and 8907.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(46) in Chapter 90,—

(i) in sub-heading No. 9001.10, for the entry in column (4), the entry "Nil" shall be substituted;

(ii) in sub-heading Nos. 9003.11 and 9003.19, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(iii) in sub-heading Nos. 9018.00 and 9019.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(iv) in sub-heading No. 9020.00, for the entry in column (4), the entry "16%" shall be substituted;

(v) in sub-heading Nos. 9021.90 and 9022.10, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(vi) in sub-heading Nos. 9032.11 and 9032.91, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(47) in Chapter 91, in all the sub-heading Nos. (except sub-heading Nos. 9101.10, 9101.90, 9102.10 and 9102.90), for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(48) in Chapter 92, in all the sub-heading Nos. for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(49) in Chapter 93, in all the sub-heading Nos. (except sub-heading No. 9301.00), for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(50) in Chapter 94,—

(i) in sub-heading No. 9404.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;

(ii) in sub-heading No. 9406.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(51) in Chapter 96, in sub-heading Nos. 9605.10 and 9607.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted.

## PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)

In the First Schedule to the Central Excise Tariff Act,—

(I) in Chapter 69,—

(i) for heading No. 69.05 and the entries relating thereto, the following shall be substituted, namely:—

"69.05

UNGLAZED CERAMIC FLAGS AND  
PAVING, HEARTH OR WALL TILES;  
UNGLAZED CERAMIC MOSAIC  
CUBES AND THE LIKE, WHETHER  
OR NOT ON A BACKING

6905.10

- Vitrified tiles, whether polished or not 16%

6905.90

- Other 16%";

(ii) after sub-heading No. 6906.10 and the entries relating thereto, the following shall be inserted, namely:—

"6906.20

- Broken glazed tiles 16%";

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)
<b>(2) in Chapter 87,—</b>			
<i>(i) for heading No. 87.02 and the entries relating thereto, the following shall be substituted, namely:—</i>			
<b>"87.02</b>		<b>MOTOR VEHICLES PRINCIPALLY DESIGNED FOR THE TRANSPORT OF MORE THAN SIX PERSONS, EXCLUDING THE DRIVER, INCLUDING STATION WAGONS</b>	
8702.10	- Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver, including station wagons	16%	
8702.90	- Other	16%";	
<i>(ii) for heading No. 87.03 and the entries relating thereto, the following shall be substituted, namely:—</i>			
<b>"87.03</b>		<b>MOTOR CARS AND OTHER MOTOR VEHICLES PRINCIPALLY DESIGNED FOR THE TRANSPORT OF NOT MORE THAN SIX PERSONS, EXCLUDING THE DRIVER, INCLUDING STATION WAGONS AND RACING CARS</b>	
8703.10	- Three-wheeled motor vehicles	16%	
8703.90	- Other	16%".	

## THE FOURTH SCHEDULE

[See section 113 (ii)]

## PART I

In the Second Schedule to the Central Excise Tariff Act,—

- (1) in sub-heading Nos. 2106.00, 2108.10, 2201.20, 2202.20, 2401.90, 2404.40, 2404.50 and 2404.99, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;
- (2) in sub-heading Nos. 2710.11, 2710.12, 2710.13, 2710.19, 3304.00, 3305.99, 3307.10, 3307.20, 3307.39, 3307.90, 4011.90, 4012.11, 4012.19, 4012.90, 4013.90, 5402.20, 5402.32, 5402.42, 5402.43, 5402.52, 5402.62 and 8415.00, for the entry in column (4) occurring against each of them, the entry "16%" shall be substituted;
- (3) in sub-heading Nos. 8703.90 and 8704.90, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;
- (4) in sub-heading No. 8706.21, for the entry in column (4), the entry "16%" shall be substituted;
- (5) in sub-heading Nos. 8706.39 and 8706.49, for the entry in column (4) occurring against each of them, the entry "24%" shall be substituted;
- (6) in sub-heading No. 9605.10, for the entry in column (4), the entry "16%" shall be substituted.

## PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)

In the Second Schedule to the Central Excise Tariff Act,—

- (1) after sub-heading No. 2404.99 and the entries relating thereto, the following shall be inserted, namely:—

"25.02	2502.21	-- White cement, whether or not artificially coloured and whether or not with rapid hardening properties	8%
	2502.30	- Aluminous cement ("Cement fondu")	8%
	2502.40	- Sagol; ashmoh	8%
	2502.50	- High alumina refractory cement	8%
	2502.90	- Other	8%";

- (2) after heading No. 40.13 and the entries relating thereto, the following shall be inserted, namely:—

"43.01	4301.00	MANUFACTURES OF FURSKINS AND ARTIFICIAL FUR	8%";
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- (3) after sub-heading No. 5402.62, and the entries relating thereto, the following shall be inserted, namely:—

"57.02	5702.19	-- Other	8%
57.03	5703.90	- Other	8%
59.04	5904.10	- Linoleum - Other:	8%
	5904.91	-- With a base consisting of needleloom felt or non-wovens	8%
	5904.92	-- With other textile base	8%
59.05	5905.00	TEXTILE WALL COVERINGS	8%
59.07	5907.90	- Other	8%";

- (4) the sub-heading No. 5505.10 and the entries relating thereto shall be omitted;

- (5) after sub-heading No. 5907.90 and the entries relating thereto, the following shall be inserted, namely:—

"69.05	6905.10	- Vitrified tiles, whether polished or not	8%
69.06	6906.10	- Glazed tiles	8%";

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)
<b>(6) sub-heading Nos. 8414.30, 8414.92, 8418.90, 8476.91, 8481.10, 8481.91 and 8536.10 and the entries relating thereto shall be omitted;</b>			
<b>(7) for sub-heading No. 8702.10, and the entries relating thereto, the following shall be substituted, namely:—</b>			
“ 87.02      8702.10	- Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver, including station wagons		16%”;
<b>(8) after sub-heading No. 8706.49 and the entries relating thereto, the following shall be inserted, namely:—</b>			
“87.11      8711.20	- Two-wheeled motor vehicles of engine capacity exceeding 75 cubic centimetres		8%
8711.90	- Other		8%
89.03      8903.00	YACHTS AND OTHER VESSELS FOR PLEASURE OR SPORTS; ROWING BOATS AND CANOES		8%
89.07      8907.00	OTHER FLOATING STRUCTURES (FOR EXAMPLE, RAFTS, TANKS, COFFER-DAMS, LANDING-STAGES, BUOYS AND BEACONS)		8%”;
<b>(9) sub-heading Nos. 9032.11 and 9032.91 and the entries relating thereto shall be omitted;</b>			
<b>(10) after sub-heading No. 8907.00 and the entries relating thereto, the following shall be inserted, namely:—</b>			
“93.02      9302.00	REVOLVERS AND PISTOLS, OTHER THAN THOSE OF HEADING NO. 93.03 OR 93.04		8%
93.03      9303.00	OTHER FIREARMS AND SIMILAR DEVICES WHICH OPERATE BY THE FIRING OF AN EXPLOSIVE CHARGE (FOR EXAMPLE, SPORTING SHOTGUNS AND RIFLES, MUZZLE-LOADING FIREARMS, VERY PISTOLS AND OTHER DEVICES DESIGNED TO PROJECT ONLY SIGNAL FLARES, PISTOLS AND REVOLVERS FOR FIRING BLANK AMMUNITION, CAPTIVE-BOLT HUMANE KILLERS, LINE-THROWING GUNS)		8%
93.04      9304.00	OTHER ARMS (FOR EXAMPLE, SPRING, AIR OR GAS GUNS AND PISTOLS, TRUNCHEONS), EXCLUDING THOSE OF HEADING NO. 93.07		8%
93.05      9305.00	PARTS AND ACCESSORIES OF ARTICLES OF HEADING NOS. 93.01 TO 93.04		8%
93.06      9306.00	BOMBS, GRENADES, TORPEDOES, MINES, MISSILES AND SIMILAR MUNITIONS OF WAR AND PARTS THEREOF; CARTRIDGES AND OTHER AMMUNITION AND PROJECTILES AND PARTS THEREOF, INCLUDING SHOT AND CARTRIDGE WADS		8%
93.07      9307.00	SWORDS, CUTLASSES, BAYONETS, LANCES AND SIMILAR ARMS AND PARTS THEREOF AND SCABBARDS AND SHEATHS THEREFOR		8%
94.04      9404.00	MATTRESS SUPPORTS; ARTICLES OF BEDDING AND SIMILAR FURNISHING (FOR EXAMPLE, MATTRESSES, QUILTS, EIDER-DOWNS, CUSHIONS, POUFFES AND PILLOWS) FITTED WITH SPRINGS OR STUFFED OR INTERNALLY FITTED WITH ANY MATERIAL OR OF CELLULAR RUBBER OR PLASTICS, WHETHER OR NOT COVERED		8%”.

## THE FIFTH SCHEDULE

(See section 114)

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act,—

- (1) in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs. 37 per thousand" shall be substituted;
- (2) in sub-heading No. 2403.12, for the entry in column (4), the entry "Rs. 125 per thousand" shall be substituted;
- (3) in sub-heading No. 2403.13, for the entry in column (4), the entry "Rs. 185 per thousand" shall be substituted;
- (4) in sub-heading No. 2403.14, for the entry in column (4), the entry "Rs. 300 per thousand" shall be substituted;
- (5) in sub-heading No. 2403.15, for the entry in column (4), the entry "Rs. 400 per thousand" shall be substituted;
- (6) in sub-heading No. 2403.19, for the entry in column (4), the entry "Rs. 495 per thousand" shall be substituted;
- (7) in sub-heading Nos. 5802.51, 5803.00, 5804.11, 5804.12, 5901.10 and 5901.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted.

## THE SIXTH SCHEDULE

*(See section 115)*

In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the "SCHEDULE", the following Schedule shall be substituted, namely:—

### THE SCHEDULE

*(See section 3)*

Item No.	Description of dutiable goods	Rate of duty
(1)	(2)	(3)
<i>Medicinal preparations</i>		
1.	Allopathic Medicinal Preparations:	
	(i) Medicinal preparations containing alcohol which are not capable of being consumed as ordinary alcoholic beverages—	
	(a) Patent or proprietary medicines	Twenty per cent. <i>ad valorem</i> .
	(b) Others	Twenty per cent. <i>ad valorem</i> .
	(ii) Medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages—	
	(a) Medicinal preparations which contain known active ingredients in therapeutic quantities	Twenty per cent. <i>ad valorem</i> .
	(b) Others	Twenty per cent. <i>ad valorem</i> .
	(iii) Medicinal preparations not containing alcohol but containing narcotic drug or narcotic	Twenty per cent. <i>ad valorem</i> .
2.	Medicinal preparations in Ayurvedic, Unani or other indigenous systems of medicine —	
	(i) Medicinal preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages	Four per cent. <i>ad valorem</i> .
	(ii) Medicinal preparations containing self-generated alcohol which are capable of being consumed as ordinary alcoholic beverages	Four per cent. <i>ad valorem</i> .
	(iii) All other containing alcohol which are prepared by distillation or to which alcohol has been added	Six per cent. <i>ad valorem</i> .
	(iv) Medicinal preparations not containing alcohol but containing narcotic drug or narcotic	Twenty per cent. <i>ad valorem</i> .
3.	Homoeopathic preparations containing alcohol	Four per cent. <i>ad valorem</i> .
<i>Toilet preparations</i>		
4.	Toilet preparations containing alcohol or narcotic drug or narcotic	Fifty per cent. <i>ad valorem</i> .

*Explanation I.*—“Patent or proprietary medicines” means any medicinal preparation which bears either on itself or on its container or both, a name which is not specified in a monograph in a pharmacopoeia, formulary or other publications notified in this behalf by the Central Government in the Official Gazette, or which is a brand name, that is, a name or a registered trade-mark under the Trade and Merchandise Marks Act, 1958 (43 of 1958), or any other mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to that medicinal preparation for the purpose of indicating or so as to indicate a connection in the course of trade between the preparation and some person having the right either as proprietor or otherwise to use the name or mark with or without any indication of the identity of that person.

*Explanation II.*—Where any article is chargeable to duty at a rate dependent on the value of the article, such value shall be deemed to be the value as determined in accordance with the provisions of section 4 of the Central Excise Act, 1944 (1 of 1944).

*Explanation III.*—(1) Notwithstanding anything contained in *Explanation II*, the Central Government may, by notification in the Official Gazette, specify any dutiable goods, in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such goods, to which the provisions of clause (2) shall apply.

(2) Where dutiable goods specified under clause (1) are chargeable to duty with reference to value, then, notwithstanding anything contained in *Explanation II*, such value shall be deemed to be the retail price declared on such goods less such amount of abatement, if any, from such retail price as the Central Government may allow by notification in the Official Gazette.

(3) The Central Government may, for the purpose of allowing any abatement under clause (2), take into account the duty of excise, sales tax and other taxes, if any, payable on such goods.

(4) Where on the package of any dutiable goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of clause (2).

(5) Where different retail sale prices are declared on different packages for the sale of any dutiable goods in packaged form in different areas, each such retail sale price shall be the retail sale price for the purposes of valuation of the dutiable goods intended to be sold in the area to which the retail sale price relates.

(6) For the purpose of this *Explanation*, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration for such sale.'

## **THE APPROPRIATION (No. 2) ACT, 2000**

**No. 11 OF 2000**

**[12th May, 2000.]**

**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 2000-2001.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**Short title.**

Issue of Rs.  
784932,86,00,000  
out of the  
Consolidated  
Fund of India  
for the year  
2000-2001.

**1. This Act may be called the Appropriation (No. 2) Act, 2000.**

**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, 2000] to the sum of seven lakhs eighty-four thousand nine hundred and thirty-two crores and eighty-six lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2000-2001 in respect of the services specified in column 2 of the Schedule.**

**5 of 2000.**

**Appropriation.**

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

Construction  
of references to  
Ministries and  
Departments in  
the Schedule.

**4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 20th February, 2000 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.**

## 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.	
1	Department of Agriculture and Cooperation .....	Revenue	5966,32,00,000	5966,32,00,000
	Capital	135,38,00,000	54,27,00,000	189,65,00,000
2	Department of Agricultural Research and Education .....	Revenue	1404,55,00,000	1404,55,00,000
3	Department of Animal Husbandry and Dairying .....	Revenue	397,08,00,000	397,08,00,000
	Capital	14,42,00,000	..	14,42,00,000
4	Department of Food Processing Industries .....	Revenue	37,80,00,000	37,80,00,000
	Capital	17,20,00,000	..	17,20,00,000
5	Department of Chemicals and Petrochemicals .....	Revenue	146,36,00,000	146,36,00,000
	Capital	65,88,00,000	..	65,88,00,000
6	Department of Fertilizers .....	Revenue	9395,33,00,000	9395,34,00,000
	Capital	328,50,00,000	..	328,50,00,000
7	Ministry of Civil Aviation .....	Revenue	176,79,00,000	176,79,00,000
	Capital	45,25,00,000	..	45,25,00,000
8	Department of Commerce .....	Revenue	1110,71,00,000	1110,71,00,000
	Capital	83,75,00,000	..	83,75,00,000
9	Department of Industrial Development and Industrial Policy and Promotion .....	Revenue	547,70,00,000	555,70,00,000
10	Department of Supply .....	Revenue	63,27,00,000	63,57,00,000
11	Department of Posts .....	Revenue	5254,46,00,000	5254,47,00,000
	Capital	89,04,00,000	..	89,04,00,000
12	Department of Telecommunication .....	Revenue	70,49,00,000	70,49,00,000
13	Department of Telecom Services .....	Revenue	21464,01,00,000	21464,06,00,000
	Capital	16013,99,00,000	1,00,000	16014,00,00,000
14	Department of Culture .....	Revenue	422,25,00,000	422,25,00,000
15	Department of Youth Affairs and Sports .....	Revenue	258,12,00,000	258,12,00,000
	Capital	1,88,00,000	..	1,88,00,000
16	Ministry of Defence .....	Revenue	3708,29,00,000	3708,55,00,000
	Capital	37,55,00,000	..	37,55,00,000
17	Defence Pensions .....	Revenue	11999,66,00,000	12000,00,00,000
18	Defence Services—Army .....	Revenue	29543,41,00,000	29552,10,00,000
19	Defence Services—Navy .....	Revenue	4095,06,00,000	4097,06,00,000
20	Defence Services—Air Force .....	Revenue	8120,75,00,000	8122,24,00,000
21	Defence Ordnance Factories .....	Revenue	580,20,00,000	580,38,00,000
22	Capital Outlay on Defence Services .....	Capital	17912,95,00,000	17926,40,00,000
23	Department of Disinvestment .....	Revenue	4,15,00,000	4,15,00,000
24	Ministry of Environment and Forests .....	Revenue	949,05,00,000	949,05,00,000
	Capital	15,95,00,000	..	15,95,00,000
25	Ministry of External Affairs .....	Revenue	2220,67,00,000	2220,70,00,000
	Capital	405,02,00,000	..	405,02,00,000
26	Department of Economic Affairs .....	Revenue	1280,78,00,000	1280,78,00,000
	Capital	364,01,00,000	..	364,01,00,000

No. of Vote	Services and purposes	3			
		Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
27	Currency, Coinage and Stamps .....	Revenue Capital	1051,18,00,000 748,94,00,000	1,56,00,000 6,00,000	1052,74,00,000 749,00,00,000
28	Payments to Financial Institutions.....	Revenue Capital	591,38,00,000 1042,65,00,000	.. ..	591,38,00,000 1042,65,00,000
	CHARGED. — <i>Interest Payments</i> .....	Revenue	..	105642,28,00,000	105642,28,00,000
30	Transfers to State and Union territory Governments .....	Revenue Capital	14144,22,00,000 ..	47057,00,00,000 20868,19,00,000	61201,22,00,000 20868,19,00,000
31	Loans to Government Servants, etc.....	Capital	800,00,00,000	..	800,00,00,000
	CHARGED. — <i>Repayment of Debt</i> .....	Capital	..	354767,13,00,000	354767,13,00,000
33	Department of Expenditure.....	Revenue Capital	23,16,00,000 3,98,00,000	.. ..	23,16,00,000 3,98,00,000
34	Pensions.....	Revenue	3865,00,00,000	..	3865,00,00,000
35	Indian Audit and Accounts Department.....	Revenue Capital	874,17,00,000 17,00,00,000	21,47,00,000 ..	895,64,00,000 17,00,00,000
36	Department of Revenue.....	Revenue Capital	349,37,00,000 8,78,00,000	2,00,000 ..	349,39,00,000 8,78,00,000
37	Direct Taxes.....	Revenue Capital	938,47,00,000 110,00,00,000	2,00,000 ..	938,49,00,000 110,00,00,000
38	Indirect Taxes .....	Revenue Capital	1193,92,00,000 317,10,00,000	1,00,00,000 ..	1194,92,00,000 317,10,00,000
39	Department of Public Distribution .....	Revenue Capital	8131,43,00,000 29,27,00,000	2,00,000 6,90,00,000	8131,45,00,000 36,17,00,000
40	Department of Consumer Affairs .....	Revenue Capital	21,82,00,000 2,24,00,000	.. ..	21,82,00,000 2,24,00,000
41	Department of Sugar and Edible Oils .....	Revenue Capital	385,60,00,000 224,89,00,000	.. ..	385,60,00,000 224,89,00,000
42	Department of Health .....	Revenue Capital	2224,23,00,000 349,77,00,000	.. ..	2224,23,00,000 349,77,00,000
43	Department of Indian Systems of Medicine and Homoeopathy .....	Revenue Capital	143,49,00,000 1,00,000	.. ..	143,49,00,000 1,00,000
44	Department of Family Welfare .....	Revenue	4370,47,00,000	..	4370,47,00,000
45	Ministry of Home Affairs.....	Revenue Capital	1139,80,00,000 18,60,00,000	10,00,000 ..	1139,90,00,000 18,60,00,000
46	Cabinet .....	Revenue Capital	131,07,00,000 13,93,00,000	.. ..	131,07,00,000 13,93,00,000
47	Police .....	Revenue Capital	7396,16,00,000 581,61,00,000	2,03,00,000 117,20,00,000	7398,19,00,000 698,81,00,000
48	Other Expenditure of the Ministry of Home Affairs .....	Revenue Capital	582,40,00,000 244,32,00,000	2,00,000 11,46,00,000	582,42,00,000 255,78,00,000
49	Transfers to Union territory Governments .....	Revenue Capital	445,99,00,000 337,97,00,000	.. ..	445,99,00,000 337,97,00,000

No. of Vote	Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
50	Department of Elementary Education and Literacy ..... Revenue	3734,60,00,000	..	3734,60,00,000
51	Department of Secondary Education and Higher Education .....	4650,36,00,000	..	4650,36,00,000
	Capital	2,00,000	..	2,00,000
52	Department of Women and Child Development .....	1511,80,00,000	..	1511,80,00,000
	Capital	20,00,000	..	20,00,000
53	Department of Public Enterprises .....	3,00,00,000	..	3,00,00,000
54	Department of Heavy Industry .....	107,53,00,000	..	107,53,00,000
	Capital	353,90,00,000	..	353,90,00,000
55	Ministry of Information and Broadcasting .....	1197,71,00,000	10,00,000	1197,81,00,000
	Capital	186,47,00,000	..	186,47,00,000
56	Ministry of Information Technology .....	347,23,00,000	..	347,23,00,000
	Capital	49,17,00,000	..	49,17,00,000
57	Ministry of Labour .....	968,50,00,000	2,00,000	968,52,00,000
	Capital	32,00,000	..	32,00,000
58	Law and Justice .....	434,67,00,000	..	434,67,00,000
59	Election Commission .....	10,68,00,000	..	10,68,00,000
	CHARGED.—Supreme Court of India .....	Revenue	29,74,00,000	29,74,00,000
61	Department of Company Affairs .....	39,10,00,000	..	39,10,00,000
	Capital	2,90,00,000	..	2,90,00,000
62	Department of Coal .....	456,31,00,000	..	456,31,00,000
	Capital	593,64,00,000	..	593,64,00,000
63	Department of Mines .....	397,12,00,000	10,00,000	397,22,00,000
	Capital	213,99,00,000	..	213,99,00,000
64	Ministry of Non-Conventional Energy Sources .....	332,91,00,000	..	332,91,00,000
	Capital	113,55,00,000	..	113,55,00,000
65	Ministry of Parliamentary Affairs .....	Revenue	4,82,00,000	..
66	Ministry of Personnel, Public Grievances and Pensions .....	Revenue	187,38,00,000	5,00,000
	Capital	2,90,00,000	9,00,00,000	11,90,00,000
67	Ministry of Petroleum and Natural Gas .....	Revenue	7,54,00,000	..
68	Ministry of Planning .....	Revenue	41,06,00,000	..
	Capital	8,94,00,000	..	8,94,00,000
69	Ministry of Power .....	Revenue	1210,94,00,000	6,50,00,000
	Capital	2169,27,00,000	10,00,00,000	2179,27,00,000
70	Department of Rural Development .....	Revenue	6678,99,00,000	..
	Capital	100,00,00,000	..	100,00,00,000
71	Department of Land Resources .....	Revenue	900,90,00,000	..
72	Department of Drinking Water Supply .....	Revenue	2101,29,00,000	..
73	Department of Science and Technology .....	Revenue	763,78,00,000	1,00,000
	Capital	20,67,00,000	..	20,67,00,000

No. of Vote	Services and purposes	2	3		
		Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
74	Department of Scientific and Industrial Research .....	Revenue	964,88,00,000	..	964,88,00,000
	Capital		5,50,00,000	..	5,50,00,000
75	Department of Bio-technology .....	Revenue	136,08,00,000	..	136,08,00,000
76	Ministry of Small Scale Industries and Agro and Rural Industries .....	Revenue	863,24,00,000	..	863,24,00,000
	Capital		43,89,00,000	..	43,89,00,000
77	Ministry of Statistics and Programme Implementation .....	Revenue	1802,10,00,000	..	1802,10,00,000
	Capital		66,95,00,000	..	66,95,00,000
78	Ministry of Steel .....	Revenue	46,24,00,000	..	46,24,00,000
	Capital		17,50,00,000	..	17,50,00,000
79	Department of Road Transport and Highways .....	Revenue	2404,99,00,000	40,00,000	2405,39,00,000
	Capital		4768,31,00,000	40,20,00,000	4808,51,00,000
80	Department of Shipping .....	Revenue	492,39,00,000	..	492,39,00,000
	Capital		574,97,00,000	3,50,00,000	578,47,00,000
81	Ministry of Textiles .....	Revenue	625,56,00,000	..	625,56,00,000
	Capital		583,74,00,000	12,00,00,000	595,74,00,000
82	Ministry of Tourism .....	Revenue	153,19,00,000	..	153,19,00,000
	Capital		8,85,00,000	..	8,85,00,000
83	Ministry of Tribal Affairs .....	Revenue	80,83,00,000	728,14,00,000	808,97,00,000
	Capital		3,60,00,000	..	3,60,00,000
84	Urban Development .....	Revenue	650,67,00,000	15,01,00,000	665,68,00,000
	Capital		424,46,00,000	64,93,00,000	489,39,00,000
85	Public Works .....	Revenue	600,80,00,000	85,00,000	601,65,00,000
	Capital		257,20,00,000	1,00,00,000	258,20,00,000
86	Stationery and Printing .....	Revenue	173,26,00,000	..	173,26,00,000
	Capital		1,75,00,000	..	1,75,00,000
87	Ministry of Urban Employment and Poverty Alleviation ..	Revenue	234,01,00,000	..	234,01,00,000
	Capital		165,00,00,000	..	165,00,00,000
88	Ministry of Water Resources .....	Revenue	635,25,00,000	2,00,000	635,27,00,000
	Capital		36,25,00,000	34,00,00,000	70,25,00,000
89	Ministry of Social Justice and Empowerment .....	Revenue	1220,03,00,000	..	1220,03,00,000
	Capital		187,36,00,000	..	187,36,00,000
90	Atomic Energy .....	Revenue	1441,17,00,000	20,00,000	1441,37,00,000
	Capital		971,28,00,000	..	971,28,00,000
91	Nuclear Power Schemes .....	Revenue	1636,34,00,000	..	1636,34,00,000
	Capital		893,99,00,000	1,00,000	894,00,00,000
92	Department of Ocean Development .....	Revenue	155,60,00,000	..	155,60,00,000
	Capital		2,40,00,000	..	2,40,00,000
93	Department of Space .....	Revenue	1665,93,00,000	20,00,000	1666,13,00,000
	Capital		356,68,00,000	3,00,000	356,71,00,000
CHARGED.— <i>Staff, Household and Allowances of the President</i> .....		Revenue	..	9,21,00,000	9,21,00,000
95	Rajya Sabha .....	Revenue	51,35,00,000	14,00,000	51,49,00,000
96	Lok Sabha .....	Revenue	121,19,00,000	41,00,000	121,60,00,000
CHARGED.— <i>Union Public Service Commission</i> .....		Revenue	..	44,93,00,000	44,93,00,000

No. of Vote	Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
98	Secretariat of the Vice-President..... Revenue	Rs. 93,00,000	Rs. ..	Rs. 93,00,000
99	Andaman and Nicobar Islands ..... Revenue	562,13,00,000	1,00,000	562,14,00,000
	Capital	233,86,00,000	..	233,86,00,000
100	Chandigarh .....	Revenue 672,27,00,000	20,73,00,000	693,00,00,000
	Capital 92,64,00,000	8,00,00,000	100,64,00,000	
101	Dadra and Nagar Haveli .....	Revenue 232,59,00,000	..	232,59,00,000
	Capital 30,56,00,000	..	30,56,00,000	
102	Daman and Diu .....	Revenue 200,01,00,000	..	200,01,00,000
	Capital 25,25,00,000	..	25,25,00,000	
103	Lakshadweep .....	Revenue 199,98,00,000	8,00,000	200,06,00,000
	Capital 26,21,00,000	..	26,21,00,000	
TOTAL		255307,79,00,000	529625,07,00,000	784932,86,00,000

THE FOOD CORPORATIONS (AMENDMENT)  
ACT, 2000

No. 12 OF 2000

[12th May, 2000.]

An Act further to amend the Food Corporations Act, 1964.

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

Short title  
and com-  
mencement.

1. (1) This Act may be called the Food Corporations (Amendment) Act, 2000.

(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 34 of  
Act 37 of 1964.

2. In the Food Corporations Act, 1964, for section 34, the following section shall be substituted, namely:—

Accounts and  
audit.

"34. (1) A Food Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of a Food Corporation shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Food Corporation 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 a Food Corporation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any office of the Food Corporation.

(4) The accounts of a Food Corporation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually by the Comptroller and Auditor-General of India to,

(i) the Food Corporation concerned;

(ii) where the accounts relate to a State Food Corporation, also to the Food Corporation of India;

(iii) the Central Government,

and that Government shall, as soon thereafter as may be, cause the same to be laid before both Houses of Parliament."

**THE SUGARCANE CONTROL (ADDITIONAL POWERS)  
REPEAL ACT, 2000**

No. 13 OF 2000

[12th May, 2000.]

An Act to repeal the Sugarcane Control (Additional Powers) Act, 1962.

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

1. This Act may be called the Sugarcane Control (Additional Powers) Repeal Act, 2000. Short title.
2. The Sugarcane Control (Additional Powers) Act, 1962 is hereby repealed. Repeal of Act 39 of 1962.

THE PRESIDENT'S EMOLUMENTS AND PENSION  
(AMENDMENT) ACT, 2000

No. 14 OF 2000

[24th May, 2000.]

An Act further to amend the President's Emoluments and Pension Act, 1951.

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

Short title and commencement.

1. (1) This Act may be called the President's Emoluments and Pension (Amendment) Act, 2000.

\*

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

Insertion of new section 2A.

2. In the President's Emoluments and Pension Act, 1951 (hereinafter referred to as the principal Act), after section 2, the following section shall be inserted, namely:—

30 of 1951.

“2A. The spouse of a person who dies—

(a) while holding the office of President, or

(b) after ceasing to hold office as President either by the expiration of his term of office or by resignation of his office, shall be paid a family pension at the rate of fifty per cent. of pension as is admissible to a retiring President, for the remainder of her life.”.

Insertion of new section 3A.

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

Free Accommodation to spouse of President.

“3A. Subject to any rules that may be made in this behalf, the spouse of a person who dies—

(a) while holding the office of President, or

(b) after ceasing to hold office as President either by the expiration of his term of office or by resignation of his office,

shall be entitled to the use of unfurnished residence without payment of licence fee, for the remainder of her life.”.

\* 11.8.2000 : Vicle notification<sup>184</sup> No. S.O. 747(E), dt. 11.8.2000

**THE NATIONAL HOUSING BANK (AMENDMENT)  
ACT, 2000**

**No. 15 OF 2000**

[24th May, 2000.]

**An Act further to amend the National Housing Bank Act, 1987.**

**Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**1. (1) This Act may be called the National Housing Bank (Amendment) Act, 2000.**

**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.**

\* 12.6.2000 : Vide Notification No. S.O. 567 (E), dt. 12.6.2000

Amendment of  
section 2.

**2.** In section 2 of the National Housing Bank Act, 1987 (hereinafter referred to as the principal Act), in clause (d), for the words "its principal object", the words "one of its principal objects" shall be substituted.

Substitution of  
new section for  
section 4.

**3.** For section 4 of the principal Act, the following section shall be substituted, namely:—

Capital.

"**4. (1)** The authorised and paid-up capital of the National Housing Bank shall be three hundred and fifty crores of rupees:

Provided that the Central Government may, in consultation with the Reserve Bank, by notification, increase the authorised capital up to two thousand crores of rupees.

**(2)** The Board may, on such terms and conditions, as determined by it from time to time, issue the increased authorised capital to the Reserve Bank, the Central Government, scheduled banks, public financial institutions, housing finance institutions or such other institutions, as may be approved by the Central Government:

Provided that no increase in the issued capital shall be made in such manner that the Reserve Bank, the Central Government, public sector banks, public financial institutions or other institutions owned or controlled by the Central Government, hold in aggregate at any time, less than fifty-one per cent. of the issued capital of the National Housing Bank."

Amendment of  
section 5.

**4.** In section 5 of the principal Act, in sub-section (3), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) the Chairman, if he is a whole-time director or if he is holding offices both as the Chairman and the Managing Director, or

(b) the Managing Director, if the Chairman is not a whole-time director, or if the Chairman being a whole-time director, is absent;"

Amendment of  
section 6.

**5.** In section 6 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), for the words "three directors", the words "two directors" shall be substituted;

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

"(c) two directors, who shall be persons with experience in the working of institutions involved in providing funds for housing or engaged in housing development or have experience in the working of financial institutions or scheduled banks;

(ca) two directors elected in such manner as may be prescribed by shareholders other than the Reserve Bank, the Central Government and other institutions owned or controlled by the Central Government;"

(b) in sub-section (2), for the words, brackets and letter "excluding the directors referred to in clause (d)", the words, brackets and letters "excluding the directors referred to in clauses (ca) and (d)" shall be substituted.

Amendment of  
section 7.

**6.** In section 7 of the principal Act, in sub-section (2), for the words, brackets and letters "clauses (b) and (c)", the words, brackets and letters "clauses (b), (c) and (ca)" shall be substituted.

Amendment of  
section 14.

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

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

"(b) making of loans and advances or rendering any other form of financial assistance whatsoever for housing activities to housing finance

institutions, scheduled banks, state co-operative agricultural and rural development banks or any other institution or class of institutions as may be notified by the Central Government;

(ba) making of loans and advances for housing or residential township-cum-housing development or slum clearance projects;"

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

"(ea) buying, selling or otherwise dealing in any loans or advances secured by mortgage or charge of the immovable property relating to scheduled banks or housing finance institutions;

(eb) creating one or more trusts and transferring loans or advances together with or without securities therefor to such trusts for consideration;

(ec) setting aside loans or advances held by the National Housing Bank and issuing and selling securities based upon such loans or advances so set aside in the form of debt obligations, trust certificates of beneficial interest or other instruments, by whatever name called, and to act as trustee for the holders of such securities;

(ed) setting up of one or more mutual funds for undertaking housing finance activities;

(ee) undertaking or participating in housing mortgage insurance;"

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

"(f) promoting, forming, conducting or associating in the promotion, formation or conduct of companies, mortgage banks, subsidiaries, societies, trusts or such other association of persons as it may deem fit for carrying out all or any of its functions under this Act;".

#### 8. In section 15 of the principal Act, in sub-section (1),—

Amendment of  
section 15.

(a) in clause (b), for the words "the Central Government", the words "the Central Government, scheduled banks, financial institutions, mutual funds" shall be substituted;

(b) in clause (c), for the words "a period which shall not be less than twelve months from the date of the making of the deposit", the words "such period and" shall be substituted;

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

"(i) by way of loans and advances and generally obtain financial assistance in such manner or on such terms and conditions as may be specified by the Reserve Bank;".

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

Insertion of  
new sections  
16A and 16B.

"16A. (1) Where any person or institution seeks any financial assistance from the National Housing Bank on the security of any immovable property belonging to him or to that institution 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 institution or, as the case may be, such other person may execute a written declaration in the form set out in the Third Schedule to this Act 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 immovable property and, if on

Assistance to  
borrower when  
to operate or a  
charge in the  
property  
offered as  
security.

receipt of such declaration, the National Housing Bank grants any financial assistance to the person or institution aforesaid, the dues relating to such assistance shall, without prejudice to the rights of any other creditor holding any prior charge or mortgage in respect of the immovable 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 by a person or an institution as security for the financial assistance referred to in sub-section (1), such person or institution may execute a fresh declaration, as far as may be in the form set out in the Third Schedule to this Act, whereupon the dues relating to such assistance shall, by virtue of the provisions of this section, also be a charge on the property specified in such fresh declaration.

(3) A declaration made under sub-section (1) or sub-section (2) may be varied or revoked at any time by the person or institution aforesaid, with the prior approval of the National Housing Bank.

(4) Every declaration made under 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 1908.

**Amount and security to be held in trust.**

16B. (1) Any sums received by a borrowing institution in repayment or realisation of loans and advances financed or refinanced either wholly or partly by the National Housing Bank shall, to the extent of the accommodation granted by the National Housing Bank and remaining outstanding, be deemed to have been received by the borrowing institution in trust for the National Housing Bank, and shall accordingly be paid by such institution to the National Housing Bank.

(2) Where any accommodation has been granted by the National Housing Bank to a borrowing institution, all securities held, or which may be held, by such borrowing institution on account of any transaction in respect of which such accommodation has been granted, shall be held by such institution in trust for the National Housing Bank.”.

**Amendment of section 18.**

10. In section 18 of the principal Act, for the words “housing finance institution”, the word “institution” shall be substituted.

**Insertion of new sections 18A and 18B.**

11. After section 18 of the principal Act, the following sections shall be inserted, namely:—

**Exemption from registration.**

“18A. Notwithstanding anything contained in sub-section (1) of section 17 of the Registration Act, 1908,—

16 of 1908.

(a) any instrument in the form of debt obligations or trust certificate of beneficial interest or other instruments, by whatever name called, issued by the National Housing Bank to securities the loans granted by the housing finance institutions and scheduled banks, 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 to an undivided interest afforded by a registered instrument, whereby the National Housing Bank has acquired the rights and interests in relation to such loans and in securities therefor; or

(b) any transfer of such instruments referred to in clause (a),

shall not require compulsory registration.

**Recovery of dues as arrears of land revenue.**

18B. Where any amount is due under an agreement to the National Housing Bank, whether acting as a trustee or otherwise, in respect of securitisation of loans of housing finance institutions and scheduled banks, the National Housing Bank may without prejudice to any other mode of recovery make an application to the State

Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf, is satisfied that any amount is due, it may issue a certificate for the amount to the Collector and the Collector shall proceed to recover that amount in the same manner as arrears of land revenue.”.

**12.** In sections 19 to 25 of the principal Act, for the words “housing finance institutions”, wherever they occur, the word “institutions” shall be substituted.

Amendment of sections 19 to 25.

**13.** After section 29 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 29A to 29C.

“29A. (1) Notwithstanding anything contained in this Chapter or in any other law for the time being in force, no housing finance institution which is a company shall commence or carry on the business of a housing finance institution without—

Requirement of registration and net owned fund.

(a) obtaining a certificate of registration issued under this Chapter; and

(b) having the net owned fund of twenty-five lakh rupees or such other higher amount, as the National Housing Bank may, by notification, specify.

(2) Every such housing finance institution shall make an application for registration to the National Housing Bank in such form as may be specified by the National Housing Bank:

Provided that a housing finance institution which is a company in existence on the commencement of the National Housing Bank (Amendment) Act, 2000, shall make an application for registration to the National Housing Bank before the expiry of six months from such commencement and notwithstanding anything contained in sub-section (1), may continue to carry on the business of housing finance institution until a certificate of registration is issued to it or rejection of application for registration is communicated to it.

(3) Notwithstanding anything contained in sub-section (1), a housing finance institution which is a company in existence on the commencement of the National Housing Bank (Amendment) Act, 2000, and having a net owned fund of less than twenty-five lakh rupees, may, for the purpose of enabling such institution to fulfil the requirement of the net owned fund, continue to carry on the business of a housing finance institution—

(i) for a period of three years from such commencement; or

(ii) for such further period as the National Housing Bank may, after recording the reasons in writing for so doing, extend,

subject to the conditions that such institution shall, within three months of fulfilling the requirement of the net owned fund, inform the National Housing Bank about such fulfilment:

Provided that the period allowed to continue business under this sub-section shall in no case exceed six years in the aggregate.

(4) The National Housing Bank, for the purpose of considering the application for registration, may require to be satisfied by an inspection of the books of such housing finance institution or otherwise that the following conditions are fulfilled:—

(a) that housing finance institution is or shall be in a position to pay its present or future depositors in full as and when their claims accrue;

(b) that the affairs of the housing finance institution are not being or are not likely to be conducted in a manner detrimental to the interest of its present or future depositors;

- (c) that the general character of the management or the proposed management of the housing finance institution shall not be prejudicial to the public interest or the interests of its depositors;
- (d) that the housing finance institution has adequate capital structure and earning prospects;
- (e) that the public interest shall be served by the grant of certificate of registration to the housing finance institution to commence or to carry on the business in India;
- (f) that the grant of certificate of registration shall not be prejudicial to the operation and growth of the housing finance sector of the country; and
- (g) any other condition, fulfilment of which in the opinion of the National Housing Bank, shall be necessary to ensure that the commencement of or carrying on the business in India by a housing finance institution shall not be prejudicial to the public interest or in the interests of the depositors.

(5) The National Housing Bank may, after being satisfied that the conditions specified in sub-section (4) are fulfilled, grant a certificate of registration subject to such conditions which it may consider fit to impose.

(6) The National Housing Bank may cancel a certificate of registration granted to a housing finance institution under this section if such institution—

- (i) ceases to carry on the business of a housing finance institution in India; or
- (ii) has failed to comply with any condition subject to which the certificate of registration had been issued to it; or
- (iii) at any time fails to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4); or
- (iv) fails—
  - (a) to comply with any direction issued by the National Housing Bank under the provisions of this Chapter; or
  - (b) to maintain accounts in accordance with the requirement of any law or any direction or order issued by the National Housing Bank under the provisions of this Chapter; or
  - (c) to submit or offer for inspection its books of account and other relevant documents when so demanded by an inspecting authority of the National Housing Bank; or
- (v) has been prohibited from accepting deposit by an order made by the National Housing Bank under the provisions of this Chapter and such order has been in force for a period of not less than three months:

Provided that before cancelling a certificate of registration on the ground that the housing finance institution has failed to comply with the provisions of clause (ii) or has failed to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4), the National Housing Bank, unless it is of the opinion that the delay in cancelling the certificate of registration shall be prejudicial to public interest or the interest of the depositors or the housing finance institution, shall give an opportunity to such institution on such terms as the National Housing Bank may specify for taking necessary steps to comply with such provision or fulfilment of such condition:

Provided further that before making any order of cancellation of certificate of registration, such institution shall be given a reasonable opportunity of being heard.

institutions, scheduled banks, state co-operative agricultural and rural development banks or any other institution or class of institutions as may be notified by the Central Government;

(ba) making of loans and advances for housing or residential township-cum-housing development or slum clearance projects;";

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

"(ea) buying, selling or otherwise dealing in any loans or advances secured by mortgage or charge of the immovable property relating to scheduled banks or housing finance institutions;

(eb) creating one or more trusts and transferring loans or advances together with or without securities therefor to such trusts for consideration;

(ec) setting aside loans or advances held by the National Housing Bank and issuing and selling securities based upon such loans or advances so set aside in the form of debt obligations, trust certificates of beneficial interest or other instruments, by whatever name called, and to act as trustee for the holders of such securities;

(ed) setting up of one or more mutual funds for undertaking housing finance activities;

(ee) undertaking or participating in housing mortgage insurance;";

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

"(f) promoting, forming, conducting or associating in the promotion, formation or conduct of companies, mortgage banks, subsidiaries, societies, trusts or such other association of persons as it may deem fit for carrying out all or any of its functions under this Act;".

#### 8. In section 15 of the principal Act, in sub-section (1),—

Amendment of  
section 15.

(a) in clause (b), for the words "the Central Government", the words "the Central Government, scheduled banks, financial institutions, mutual funds" shall be substituted;

(b) in clause (c), for the words "a period which shall not be less than twelve months from the date of the making of the deposit", the words "such period and" shall be substituted;

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

"(i) by way of loans and advances and generally obtain financial assistance in such manner or on such terms and conditions as may be specified by the Reserve Bank;".

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

"16A. (1) Where any person or institution seeks any financial assistance from the National Housing Bank on the security of any immovable property belonging to him or to that institution 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 institution or, as the case may be, such other person may execute a written declaration in the form set out in the Third Schedule to this Act 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 immovable property and, if on

Insertion of  
new sections  
16A and 16B.

Assistance to  
borrower when  
to operate or a  
charge in the  
property  
offered as  
security.

(c) that the general character of the management or the proposed management of the housing finance institution shall not be prejudicial to the public interest or the interests of its depositors;

(d) that the housing finance institution has adequate capital structure and earning prospects;

(e) that the public interest shall be served by the grant of certificate of registration to the housing finance institution to commence or to carry on the business in India;

(f) that the grant of certificate of registration shall not be prejudicial to the operation and growth of the housing finance sector of the country; and

(g) any other condition, fulfilment of which in the opinion of the National Housing Bank, shall be necessary to ensure that the commencement of or carrying on the business in India by a housing finance institution shall not be prejudicial to the public interest or in the interests of the depositors.

(5) The National Housing Bank may, after being satisfied that the conditions specified in sub-section (4) are fulfilled, grant a certificate of registration subject to such conditions which it may consider fit to impose.

(6) The National Housing Bank may cancel a certificate of registration granted to a housing finance institution under this section if such institution—

(i) ceases to carry on the business of a housing finance institution in India; or

(ii) has failed to comply with any condition subject to which the certificate of registration had been issued to it; or

(iii) at any time fails to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4); or

(iv) fails—

(a) to comply with any direction issued by the National Housing Bank under the provisions of this Chapter; or

(b) to maintain accounts in accordance with the requirement of any law or any direction or order issued by the National Housing Bank under the provisions of this Chapter; or

(c) to submit or offer for inspection its books of account and other relevant documents when so demanded by an inspecting authority of the National Housing Bank; or

(v) has been prohibited from accepting deposit by an order made by the National Housing Bank under the provisions of this Chapter and such order has been in force for a period of not less than three months:

Provided that before cancelling a certificate of registration on the ground that the housing finance institution has failed to comply with the provisions of clause (ii) or has failed to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4), the National Housing Bank, unless it is of the opinion that the delay in cancelling the certificate of registration shall be prejudicial to public interest or the interest of the depositors or the housing finance institution, shall give an opportunity to such institution on such terms as the National Housing Bank may specify for taking necessary steps to comply with such provision or fulfilment of such condition:

Provided further that before making any order of cancellation of certificate of registration, such institution shall be given a reasonable opportunity of being heard.

(7) A housing finance institution aggrieved by the order or rejection of application for registration or cancellation of certificate of registration may prefer an appeal, within a period of thirty days from the date on which such order of rejection or cancellation is communicated to it, to the Central Government and the decision of the Central Government where an appeal has been preferred to it, or of the National Housing Bank where no appeal has been preferred, shall be final:

Provided that before making any order of rejection of appeal, such institution shall be given a reasonable opportunity of being heard.

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

(I) "net owned fund" means—

(a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the housing finance institution after deducting therefrom—

(i) accumulated balance of loss;

(ii) deferred revenue expenditure; and

(iii) other intangible assets; and

(b) further reduced by the amounts representing—

(I) investments of such institution in shares of—

(i) its subsidiaries;

(ii) companies in the same group;

(iii) all other housing finance institutions which are companies; and

(2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,—

(i) subsidiaries of such company; and

(ii) companies in the same group, to the extent such amount exceeds ten per cent. of (a) above;

(II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956.

1 of 1956.

29B. (1) Every housing finance institution shall invest and continue to invest in India in unencumbered approved securities, valued at a price not exceeding the current market price of such securities, an amount which, at the close of business on any day, shall not be less than five per cent. or such higher percentage not exceeding twenty-five per cent. as the National Housing Bank may, from time to time and by notification, specify, of the deposits outstanding at the close of business on the last working day of the second preceding quarter.

Maintenance of percentage of assets.

(2) Every housing finance institution shall maintain in India in an account with a scheduled bank in term deposits or certificate of deposits (free of charge or lien) or in deposits with the National Housing Bank or by way of subscription to the bonds issued by the National Housing Bank, or partly in such account or in such deposit or partly by way of such subscription, a sum which, at the close of business on any day, together with the investment made under sub-section (1) shall not be less than ten per cent. or such higher percentage not exceeding twenty-five per cent., as the National Housing Bank may, from time to time and by notification specify, of the deposits outstanding in the books of the housing finance institution at the close of business on the last working day of the second preceding quarter.

(3) For the purpose of ensuring compliance with the provisions of this section, the National Housing Bank may require every such housing finance institution to furnish a return to it in such form, in such a manner and for such period as may be specified by the National Housing Bank.

(4) If the amount invested by a housing finance institution at the close of business on any day is less than the rate specified under sub-section (1) or sub-section (2), such housing finance institution shall be liable to pay to the National Housing Bank, in respect of such shortfall, a penal interest at a rate of three per cent. per annum above the bank rate on such amount by which the amount actually maintained or invested falls short of the specified percentage, and where the shortfall continues in the subsequent quarters, the rate of penal interest shall be five per cent. per annum above the bank rate on such shortfall for each subsequent quarter.

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

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

(6) Notwithstanding anything contained in this section, if the National Housing Bank is satisfied that the defaulting housing finance institution had sufficient cause for its failure to comply with the provisions of sub-section (1) or sub-section (2), it may not demand the payment of the penal interest.

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

(i) "approved securities" means securities of any State Government or of the Central Government and such bonds, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such Government;

(ii) "unencumbered approved securities" includes the approved securities lodged by the housing finance institution with another institution for an advance or any other arrangement to the extent to which such securities have not been drawn against or availed of or encumbered in any manner;

(iii) "quarter" means the period of three months ending on the last day of March, June, September or December.

#### Reserve fund.

29C. (1) Every housing finance institution which is a company shall create a reserve fund and transfer therein a sum not less than twenty per cent. of its net profit every year as disclosed in the profit and loss account and before any dividend is declared.

*Explanation.*—A housing finance institution creating and maintaining any special reserve in terms of clause (viii) of sub-section (1) of section 36 of the Income-tax Act, 1961, may take into account any sum transferred by it for the year to such special reserve for the purposes of this sub-section.

(2) No appropriation of any sum from the reserve fund including any sum in the special reserve which has been taken into account for the purposes of reserve fund in terms of sub-section (1), shall be made by such housing finance institution except for

the purpose as may be specified by the National Housing Bank from time to time and every such appropriation shall be reported to the National Housing Bank within twenty-one days from the date of such withdrawal:

Provided that the National Housing Bank may, in any particular case and for sufficient cause being shown, extend the period of twenty-one days by such further period as it thinks fit or condone any delay in making such report.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, on the recommendation of the National Housing Bank and having regard to the adequacy of the paid-up capital and reserves of a housing finance institution which is a company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not be applicable to such housing finance institution for such period as may be specified in the order:

Provided that no such order shall be made unless the amount in the reserve fund under sub-section (1), together with the amount in the share premium account, is not less than the paid-up capital of the housing finance institution."

**14. After section 30 of the principal Act, the following section shall be inserted, namely:—**

"30A. (1) If the National Housing Bank is satisfied that, in the public interest or to regulate the housing finance system of the country to its advantage or to prevent the affairs of any housing finance institution being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the housing finance institutions, it is necessary or expedient so to do, it may subject to the provisions of sub-section (5) of section 5, determine the policy and give directions to all or any of the housing finance institution relating to income recognition, accounting standards, making of proper provision for bad and doubtful debts, capital adequacy based on risk weights for assets and credit conversion factors for off balance-sheet items and also relating to deployment of funds by a housing finance institution or a group of housing finance institutions or housing finance institutions generally, as the case may be, and such housing finance institutions shall be bound to follow the policy so determined and the direction so issued.

(2) Without prejudice to the generality of the powers vested under sub-section (1), the National Housing Bank may give directions to housing finance institutions generally or to a group of housing finance institutions or to any housing finance institution in particular as to—

(a) the purpose for which advances or other fund-based or non-fund-based accommodation may not be made; and

(b) the maximum amount of advances or other financial accommodation or investment in shares and other securities which, having regard to the paid-up capital, reserves and deposits of the housing finance institution and other relevant considerations, may be made by that housing finance institution to any person or a company or to a group of companies."

**15. In section 31 of the principal Act, in sub-section (3), after the word "including", the words "credit rating of the housing finance institution accepting deposits," shall be inserted.**

**16. In section 33 of the principal Act,—**

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

"(IA) The National Housing Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of the depositors or for the purpose of proper assessment of the books of account, issue directions

Insertion of new section 30A.

Power of National Housing Bank to determine policy and issue directions.

Amendment of section 31.

Amendment of section 33.

to any housing finance institution or any group of housing finance institutions or housing finance companies generally or to the auditors of such housing finance institution or institutions relating to balance-sheet, profit and loss account, disclosure of liabilities in the books of account or any matter relating thereto.";

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

"(3) Where the National Housing Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the housing finance institution or in the interest of the depositors of such institution, it may at any time by order, direct that a special audit of the accounts of the housing finance institution in relation to any such transaction or class of transactions or for such period or periods, as may be specified in the order, shall be conducted and the National Housing Bank may appoint an auditor or auditors to conduct such special audit and direct the auditor or the auditors to submit the report to it.

"(4) The remuneration of the auditors as may be fixed by the National Housing Bank, having regard to the nature and volume of work involved in the audit and the expenses of or incidental to the audit, shall be borne by the housing finance institution so audited."

**Insertion of new sections 33A and 33B;**

**Power of National Housing Bank to prohibit acceptance of deposit and alienation of assets.**

**Power of National Housing Bank to file winding up petition.**

**17. After section 33 of the principal Act, the following sections shall be inserted, namely:—**

"33A. (1) If any housing finance institution violates the provisions of any section or fails to comply with any direction or order given by the National Housing Bank under any of the provisions of this Chapter, the National Housing Bank may prohibit the housing finance institution from accepting any deposit.

(2) Notwithstanding anything to the contrary contained in any agreement or instrument or any law for the time being in force, the National Housing Bank on being satisfied that it is necessary so to do in the public interest or in the interest of the depositors, may direct, the housing finance institution against which an order prohibiting from accepting deposit has been issued, not to sell, transfer, create charge or mortgage or deal in any manner with its property and assets without prior written permission of the National Housing Bank for such period not exceeding six months from the date of the order.

33B. (1) The National Housing Bank, on being satisfied that a housing finance institution which is a company,—

(a) is unable to pay its debt; or

(b) has by virtue of the provisions of section 29A become disqualified to carry on the business of a housing finance institution; or

(c) has been prohibited by the National Housing Bank from receiving deposit by an order and such order has been in force for a period of not less than three months; or

(d) the continuance of the housing finance institution is detrimental to the public interest or to the interest of depositors of the company,

may file an application for winding up of such housing finance institution under the Companies Act, 1956.

1 of 1956.

(2) A housing finance institution which is a company shall be deemed to be unable to pay its debt if it has refused or has failed to meet within five working days any lawful demand made at any of its offices or branches and the National Housing Bank certifies in writing that such company is unable to pay its debt.

(3) A copy of every application made by the National Housing Bank under sub-section (1) shall be sent to the Registrar of Companies.

1 of 1956.

(4) All the provisions of the Companies Act, 1956 relating to winding up of a company shall apply to a winding up proceeding initiated on the application made by the National Housing Bank under this provision."

**18.** After section 35 of the principal Act, the following sections shall be inserted, namely:—

"35A. (1) Any information relating to a housing finance institution,—

(a) contained in any statement or return submitted by such institution under the provisions of this Chapter; or

(b) obtained through audit or inspection or otherwise by the National Housing Bank,

shall be treated as confidential and shall not, except otherwise provided in this section, be disclosed.

(2) Nothing in this section shall apply to—

(a) the disclosure by any housing finance institution, with the previous permission of the National Housing Bank, of any information furnished to the National Housing Bank under sub-section (1);

(b) the publication by the National Housing Bank, if it considers necessary in the public interest so to do, of any information collected by it under sub-section (1) in such consolidated form as it may think fit without disclosing the name of any housing finance institution or its borrowers;

(c) the disclosure by the housing finance institution or by the National Housing Bank of any such information to any other housing finance institution or in accordance with the practice and usage customary amongst such institutions or as permitted or required under any other law:

Provided that any such information received by a housing finance institution under this clause shall not be published except in accordance with the practice and usage customary amongst institutions or as permitted or required under any other law.

(3) Notwithstanding anything contained in this Act or in any other law for the time being in force, the National Housing Bank, if it is satisfied that, in the public interest or in the interest of the depositors or the housing finance institution or to prevent the affairs of any housing finance institution being conducted in a manner detrimental to the interest of the depositors, it is expedient so to do, may, either on its own motion or on being requested, furnish or communicate any information relating to the conduct of business by any housing finance institution to any authority constituted under any law.

(4) Notwithstanding anything contained in any other law for the time being in force, no court or tribunal or other authority shall compel the National Housing Bank to produce or to give inspection of any statement or other material obtained by the National Housing Bank under any provision of this Chapter.

**35B.** The National Housing Bank on being satisfied that it is necessary so to do, may, declare by notification that any or all the provisions of this Chapter shall not apply to a housing finance institution or a group of housing finance institutions either generally or for such period as may be specified, subject to such conditions, limitations or restrictions as it may think fit to impose."

Insertion of new sections 35A and 35B.

Disclosure of information.

Power of National Housing Bank to exempt any housing finance institution.

**Insertion of new sections 36A and 36B.**

**Power to order repayment of deposit.**

**Nomination by depositors.**

**19. After section 36 of the principal Act, the following sections shall be inserted, namely:—**

"36A. (1) Every deposit accepted by a housing finance institution which is a company unless renewed, shall be repaid in accordance with the terms and conditions of such deposit.

(2) Where a housing finance institution which is a company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, such officer of the National Housing Bank, as may be authorised by the Central Government for the purpose of this section (hereinafter referred to as the "authorised officer") may, if he is satisfied, either on his own motion or on any application of the depositor, that it is necessary so to do to safeguard the interests of the housing finance institution, the depositors or in the public interest, direct, by order, such housing finance institution to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order:

Provided that the authorised officer may, before making any order under this sub-section, give a reasonable opportunity of being heard to the housing finance institution and the other persons interested in the matter.

36B. (1) Where a deposit is held by a housing finance institution to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949 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 housing finance institution.

10 of 1949.

(2) Notwithstanding anything contained in any other law for the time being in force, or in any deposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made purports to confer on any person the right to receive the amount of deposit from the housing finance institution, 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 manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949.

10 of 1949.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, any person to receive the amount of deposit in the event of his death during the minority of the nominee.

10 of 1949.

(4) Payment by a housing finance institution in accordance with the provisions of this section shall constitute a full discharge to the housing finance institution 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.

(5) No notice of the claim of any person, other than the person or persons in whose name a deposit is held by the housing finance institution, shall be receivable by the housing finance institution, nor shall the housing finance institution 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 housing finance institution, the housing finance institution shall take due note of such decree, order, certificate or other authority."

**20.** After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of  
new Chapter  
VA.

## CHAPTER VA

### OTHER PROVISIONS RELATING TO HOUSING FINANCE INSTITUTIONS

**36C.** In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "Appellate Tribunal" means the Appellate Tribunal established under section 36-I;

(b) "approved institution" means—

(i) a housing finance institution which has been granted a certificate of registration under sub-section (5) of section 29A;

(ii) a scheduled bank;

(iii) National Housing Bank acting as trustee or otherwise in a transaction of securitisation of housing mortgages undertaken by the National Housing Bank;

(iv) such other institutions as the Central Government may, on the recommendation of the National Housing Bank, by notification, specify;

(c) "assistance" means any direct or indirect financial assistance granted, by an approved institution during the course of any housing finance activity undertaken by it;

(d) "borrower" means any person to whom any assistance has been given by an approved institution for the purposes of purchase, construction, repairs, extension or renovation of a residential house;

(e) "dues" means any liability which is claimed as due from any person by an approved institution and includes interest, costs, charges and other amount payable in relation thereto;

(f) "recovery officer" means an officer appointed under section 36D.

**36D.** (1) The Central Government may, in consultation with the National Housing Bank, by notification appoint such persons being the officers of the approved institution, as it may deem fit, to be recovery officers for the purpose of this Chapter who shall have such qualifications as the Central Government may by rules made under this Act specify.

Appointment  
of recovery  
officer.

(2) The local limits within which the recovery officer shall exercise the powers conferred and perform the duties imposed on by or under this Chapter shall be such as may be specified by the Central Government by notification.

**36E.** (1) Where any borrower, who is under a liability to an approved institution under an agreement, makes any default in repayment of any assistance or any instalment thereof or otherwise fails to comply with the terms of said agreement, then, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, the approved institution may apply, to the recovery officer within the limits of whose jurisdiction the borrower actually and voluntarily resides, or carries on business, or personally works for gain, or the cause of action wholly or in part arises, for the sale of the property pledged, mortgaged, hypothecated or assigned to the approved institution as security for the dues.

Application to  
the recovery  
officer.

(2) Where an approved institution, which has to recover its dues from any borrower, has filed an application to the recovery officer under sub-section (1) and the same property is also pledged, mortgaged, hypothecated or assigned to another

approved institution or person, the other approved institution or person may join the approved institution at any stage of the proceedings, before the final order is passed, by making an application to that recovery officer.

(3) In the application under sub-section (1) or sub-section (2), the nature and extent of the liability of the borrower to the approved institution or person, the grounds on which it is made shall be stated and it be in such form and be accompanied by such documents or other evidence as may be prescribed.

**Procedure in respect of application under section 36E.**

36F. (1) On receipt of an application under section 36E, if the recovery officer is of opinion that the borrower is under a liability to an approved institution under an agreement, or has made default in repayment of the assistance or any instalment thereof or has otherwise failed to comply with the terms of said agreement, he shall cause a written notice of demand in such form as may be prescribed to be served on the borrower, calling upon him to pay the amount specified in the notice within a period of ninety days from the date of service thereof or to show cause as to why the relief prayed for should not be granted.

(2) The recovery officer may after giving the applicant and the borrower an opportunity of being heard, pass such interim or final order, including the order for payment of interest from the date on or before which payment of the amount is found due up to the date of realisation or actual payment, on the application as it thinks fit to meet the ends of justice.

(3) The recovery officer may also consider and if satisfied, allow any claim of set-off or counter-claim set up by the borrower against the approved institution or person.

(4) The recovery officer shall supply a copy of every order passed by it to the approved institution and the borrower.

(5) The recovery officer may make an interim order (whether by way of injunction or stay or attachment) against the borrower to debar him from transferring, alienating or otherwise dealing with or disposing of, any property which is pledged, mortgaged, hypothecated or assigned to the approved institution as security for the dues.

(6) The application made to the recovery officer under section 36E shall be dealt with by him as expeditiously as possible and endeavour shall be made by him to dispose of the application finally within six months from the date of receipt of the application.

**Enforcement of order of recovery officer.**

36G. (1) Where the borrower refuses or fails to comply with the order within the time specified therein the recovery officer may, take possession of any property pledged, mortgaged, hypothecated or assigned to the approved institution as security for any assistance in respect of which default has been made and transfer by way of sale, lease or otherwise such property.

(2) Any transfer by way of sale, lease or otherwise under this section shall be conducted in such manner as may be prescribed.

(3) Any transfer of property made by the recovery officer, in exercise of its powers under sub-section (1), shall vest in the transferee all rights in or to the property transferred, as if the transfer has been made by the owner of the property.

(4) Where any action has been taken against the borrower under the provisions of sub-section (1), all costs, charges, expenses which in the opinion of the recovery officer have been properly incurred by him as incidental thereto, shall be recoverable from the borrower and the money which is received by it 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 debt, due to the approved institution, and the residue of the money so received shall be paid to the person entitled thereto.

(5) If the dues of the approved institution, together with all costs, charges and expenses incurred by the recovery officer, are tendered to the approved institution or to the recovery officer at any time before the date fixed for sale or transfer, the property shall not be sold or transferred, and no further steps shall be taken for transfer or sale of that property.

36H. (1) Where any property is sold or leased in pursuance of any power conferred by section 36E, the recovery officer may, for the purpose of taking into custody or under control any such property, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such property or other documents relating thereto may be situated or found to take possession thereof, and the Chief Metropolitan Magistrate or as the case may be, the District Magistrate shall, on such request being made to him,—

- (a) take possession of such property and documents relating thereto; and
- (b) forward them to the recovery officer.

(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.

36I. (1) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Housing Finance Institutions Debt Recovery Appellate Tribunals, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

(2) The Central Government shall also specify in the notification referred to in sub-section (1), the areas in relation to which the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may authorise the Presiding Officer of an Appellate Tribunal to discharge also the functions of the Presiding Officer of other Appellate Tribunal.

36J. An Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Appellate Tribunal) to be appointed, by notification, by the Central Government.

36K. A person shall not be qualified for appointment as the Presiding Officer of an Appellate Tribunal, unless he—

- (a) is, or has been, or is qualified to be a District Judge;
- (b) has been a Member of the Indian Legal Service and has held a post in Grade II of that Service for at least three years.

36L. The Presiding Officer of an Appellate Tribunal 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.

36M. (1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as that Government may think fit.

(2) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

Chief Metropolitan Magistrate and District Magistrate to assist recovery officer in taking charge of property.

Establishment of Appellate Tribunal.

Composition of Appellate Tribunal.

Qualifications for appointment as Presiding Officer of Appellate Tribunal.

Term of office.

Staff of Appellate Tribunal.

(3) The salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal shall be such as the Central Government may by rules made under this Act specify.

**Salaries and allowances and other terms and conditions of service of Presiding Officers.**

36N. The salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer of an Appellate Tribunal shall be such as the Central Government may by rules made under this Act specify:

Provided that neither the salary and allowances nor the other terms and conditions of a Presiding Officer shall be varied to his disadvantage after appointment.

**Filling up of vacancies.**

36-O. If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of an Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

**Resignation and removal.**

36P. (1) The Presiding Officer of an Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

(2) The Presiding Officer of an Appellate Tribunal shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after enquiry made by a Judge of a High Court in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of the charges.

(3) The Central Government may, by rules made under this Act, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

**Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.**

36Q. No order of the Central Government appointing any person as the Presiding Officer of an Appellate Tribunal shall be called in question in any manner, and no act or proceeding before an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the establishment of an Appellate Tribunal.

**Jurisdiction, powers and authority of Appellate Tribunal.**

36R. An Appellate Tribunal shall exercise the jurisdiction, powers and authority to entertain appeals against any order made or deemed to have been made by the recovery officer under this Act.

**Appeal to the Appellate Tribunal.**

36S. (1) Any person aggrieved by an order made or deemed to have been made by the recovery officer under this Chapter, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made or deemed to have been made by the recovery officer is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (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 setting aside the order appealed against.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned recovery officer.

(5) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of the receipt of the appeal.

36T. Where an appeal is preferred by a borrower, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five per cent. of the amount due from him as determined by the recovery officer:

Provided that the Appellate Tribunal may, for the reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

Deposit of amount due, on filing appeal.

5 of 1908.

36U. (1) The recovery officer and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any regulations, the recovery officer and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

Procedure and powers of recovery officer and Appellate Tribunal.

5 of 1908.

(2) The recovery officer and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, 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) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

45 of 1860.

(3) Any proceeding before the recovery officer or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the recovery officer or the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

36V. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to an application made to recovery officer.

Limitation.

36 of 1963.

36W. The Presiding Officer, other officers and employees of an Appellate Tribunal and the recovery officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Presiding Officer, recovery officer, other officers and employees to be public servant.

45 of 1860.

Protection of action taken in good faith.

36X. No suit, prosecution or other legal proceedings shall lie against the Central Government or against the Presiding Officer of an Appellate Tribunal or against the recovery officer for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or regulation or order made thereunder.

Bar of jurisdiction.

36Y. No Court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in this Chapter.

Transitional provisions.

36Z. Notwithstanding anything contained in this Act, till the establishment of the Appellate Tribunal under section 36-I for any area, the Appellate Tribunal established under section 8 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and which is functioning in that area shall exercise the jurisdiction, powers and authority conferred on the Appellate Tribunal under this Act.  
51 of 1993.

Amendment of section 40.

21. In section 40 of the principal Act, in sub-section (5), for the words "three months", the words "four months" shall be substituted.

Insertion of new section 43A.

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

Delegation of powers.

"43A. The Board may, by general or special order, delegate to an officer or officers of the National Housing Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary."

Insertion of new section 45A.

23. After section 45 of the principal Act, the following section shall be inserted, namely:—

Arrangement with National Housing Bank on appointment of directors to prevail.

"45A. (1) Where any arrangement entered into by the National Housing Bank with a housing finance institution which is a company provides for the appointment by the National Housing Bank of one or more directors of such housing finance institution, 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 that housing finance institution, or 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 National Housing Bank in pursuance of the arrangement as aforesaid.  
1 of 1956.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the National Housing Bank and may be removed or substituted by any person by order in writing of the National Housing 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".

Insertion of new section 47A.

24. After section 47 of the principal Act, the following section shall be inserted, namely:—

**"47A.** (1) Notwithstanding anything contained in any other law for the time being in force, where a nomination in respect of any deposit, bonds or other securities is made with the National Housing Bank in the prescribed manner, the amount due on such deposits, bonds or securities shall, on the death of the depositor or holder thereof, vest in, and be payable to, the nominee subject to any right, title or interest of any other person to such deposits, bonds or securities.

(2) Any payment made by the National Housing Bank in accordance with the provisions of sub-section (1) shall be a full discharge of its liability in respect of such deposits, bonds or securities."

**25. In section 49 of the principal Act,—**

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

"(2A) If any person contravenes the provisions of sub-section (1) of section 29A, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(2B) If any auditor fails to comply with any direction given or order made by the National Housing Bank under section 33, he shall be punishable with fine which may extend to five thousand rupees.

(2C) Whoever fails to comply with any order made by the authorised officer under sub-section (2) of section 36A, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues;

(b) in sub-section (3),—

(i) after the words "If any person", the words "other than an auditor" shall be inserted;

(ii) after clause (a), the following clause shall be inserted, namely:—

"(aa) fails to comply with any direction given or order made by the National Housing Bank under any of the provisions of Chapter V; or"

**26. For section 52 of the principal Act, the following sections shall be substituted, namely:—**

**"52. A court imposing fine under the Act may direct that the fine, if realised shall be applied—**

(a) firstly in, or towards payment of, the cost of the proceedings, and

(b) secondly for repayment of the deposit to the person to whom repayment of the deposit was to be made, and on such payment, the liability of the housing finance institution to make repayment of the deposit shall, to the extent of the amount paid by the Court, stand discharged.

**52A.** (1) Notwithstanding anything contained in section 49, if the contravention or default of the nature referred to in section 49 is committed by a housing finance institution which is a company, the National Housing Bank may impose on such institution—

(a) a penalty not exceeding five thousand rupees; or

(b) where the contravention or default is under sub-section (2A) or clause (a) or clause (aa) of sub-section (3) of section 49, a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to twenty-five thousand rupees for every day, after the first, during which the contravention or default continues.

Nomination in  
respect of  
deposits,  
bonds, etc.

Amendment of  
section 49.

Substitution of  
new sections  
for section 52.

Application of  
fine.

Power of  
National  
Housing Bank  
to impose  
fine.

(2) For the purpose of imposing penalty under sub-section (1), the National Housing Bank shall serve a notice on the housing finance institution requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such housing finance institution.

(3) Any penalty imposed by the National Housing Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the National Housing Bank demanding payment of the sum is served on the housing finance institution and, in the event of failure of the housing finance institution to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office or the head office of the housing finance institution is situated:

Provided that no such direction shall be made, except on an application made by an officer of the National Housing Bank authorised in this behalf, to the principal civil court.

(4) The court which makes a direction under sub-section (3), shall issue a certificate specifying the sum payable by the housing finance institution and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(5) No complaint shall be filed against any housing finance institution in any court of law pertaining to any contravention or default in respect of which any penalty has been imposed by the National Housing Bank under this section.

(6) Where any complaint has been filed against a housing finance institution in a court in respect of contravention or default of the nature referred to in section 49, no proceedings for imposition of penalty against the housing finance institution shall be taken under this section."

Insertion of  
new section  
54A.

27. After section 54 of the principal Act, the following section shall be inserted, namely:—

Power to make  
rules.

"54A. (1) The Central Government may, by notification, 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) qualifications for appointment as a recovery officer under sub-section (1) of section 36D;

(b) the salaries and allowances and other terms and conditions of service of the officers and other employees of the Appellate Tribunal under sub-section (3) of section 36M;

(c) the salaries and allowances and other terms and conditions of service of the Presiding Officers of the Appellate Tribunal under section 36N; and

(d) the procedure for the investigation of misbehaviour or incapacity of the Presiding Officers of the Appellate Tribunals under sub-section (3) of section 36P".

Amendment of  
section 55.

28. In section 55 of the principal Act,—

(A) in sub-section (2),—

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

"(aa) the manner in which directors shall be elected under clause (ca) of sub-section (1) of section 6;"

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

"(fa) the form of application to be made under section 36E and the documents to be annexed to such application;

(fb) the form in which notice of demand is required to be served on the borrower under sub-section (1) of section 36F;

(fc) the manner in which the property shall be transferred under sub-section (2) of section 36G;

(fd) the form in which the appeal can be filed with the Appellate Tribunal under section 36S and the amount of fee required to be deposited with such appeal;";

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

"(ja) the manner in which nomination may be made under sub-section (1) of section 47A.";

(B) in sub-section (5), for the words "regulation or scheme", wherever they occur, the words "rules, regulation or scheme" shall be substituted.

29. After the Second Schedule to the principal Act, the following Schedule shall be added at the end, namely:—

Addition of new Schedule.

#### "THE THIRD SCHEDULE

(See section 16A)

#### DECLARATION REFERRED TO IN SECTION 16A OF THE NATIONAL HOUSING BANK ACT, 1987

Place

Date:

I/we \_\_\_\_\_ hereby declare that in consideration of the assistance sanctioned by the National Housing Bank to me/us at my/our request, as specified in the Annexure hereto, I/we agree that the immovable property specified in the said Annexure shall constitute security for the said assistance and I/we further agree that the dues relating to the assistance mentioned above, shall, on and from the date of these presents, be a charge on the said immovable property.

1. Signed and delivered by

.....  
(Borrower)

2. Signed and delivered by

.....  
(Surety)

#### ANNEXURE

I. Details of assistance.

II. Particulars of immovable property.”.

# **THE DESIGNS ACT, 2000**

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# THE DESIGNS ACT, 2000

No. 16 OF 2000

[25th May, 2000.]

An Act to consolidate and amend the law relating to protection of designs.

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

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Designs Act, 2000.

(2) It extends to the whole of India.

(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 provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “article” means any article of manufacture and any substance, artificial, or partly artificial and partly natural; and includes any part of an article capable of being made and sold separately;

Short title,  
extent and  
commencement.

Definitions.

\* 11.5.2001; <sup>209</sup>Notice notification no. s.o. 414 (E), dt. 11.5.2001

(b) "Controller" means the Controller-General of Patents, Designs and Trade Marks referred to in section 3;

(c) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered;

(d) "design" means only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in clause (v) of sub-section (1) of section 2 of the Trade and Merchandise Marks Act, 1958 or property mark as defined in section 479 of the Indian Penal Code or any artistic work as defined in clause (c) of section 2 of the Copyright Act, 1957.

(e) "High Court" shall have the same meaning as assigned to it in clause (i) of section 2 of the Patents Act, 1970;

(f) "legal representative" means a person who in law represents the estate of a deceased person;

(g) "original", in relation to a design, means originating from the author of such design and includes the cases which though old in themselves yet are new in their application;

(h) "patent office" means the patent office referred to in section 74 of the Patents Act, 1970.

39 of 1970.

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

(j) "proprietor of a new or original design",—

(i) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed;

(ii) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(iii) in any other case, means the author of the design; and where the property in or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

## CHAPTER II

### REGISTRATION OF DESIGNS

**Controller and other officers.** 3. (1) The Controller-General of Patents, Designs and Trade Marks appointed under sub-section (1) of section 4 of the Trade and Merchandise Marks Act, 1958 shall be the Controller of Designs for the purposes of this Act.

43 of 1958.

(2) For the purposes of this Act, the Central Government may appoint as many examiners and other officers with such designations as it thinks fit.

(3) Subject to the provisions of this Act, the officers appointed under sub-section (2) shall discharge under the superintendence and directions of the Controller such functions of the Controller under this Act as he may, from time to time, by general or special order in writing, authorise them to discharge.

43 of 1958.

45 of 1860.

14 of 1957.

39 of 1970.

(4) Without prejudice to the generality of the provisions of sub-section (3), the Controller may, by order in writing and for reasons to be recorded therein, withdraw any matter pending before an officer appointed under sub-section (2) and deal with such matter himself either *de novo* or from the stage it was so withdrawn or transfer the same to another officer appointed under sub-section (2) who may, subject to special directions in the order of transfer, proceed with the matter either *de novo* or from the stage it was so transferred.

**4. A design which—**

- (a) is not new or original; or
- (b) has been disclosed to the public anywhere in India or in any other country by publication in tangible form or by use or in any other way prior to the filing date, or where applicable, the priority date of the application for registration; or
- (c) is not significantly distinguishable from known designs or combination of known designs; or
- (d) comprises or contains scandalous or obscene matter,

shall not be registered.

**5. (1)** The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in any country and which is not contrary to public order or morality, register the design under this Act:

Provided that the Controller shall before such registration refer the application for examination, by an examiner appointed under sub-section (2) of section 3, as to whether such design is capable of being registered under this Act and the rules made thereunder and consider the report of the examiner on such reference.

**(2)** Every application under sub-section (1) shall be in the prescribed form and shall be filed in the patent office in the prescribed manner and shall be accompanied by the prescribed fee.

**(3)** A design may be registered in not more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

**(4)** The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal to the High Court.

**(5)** An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

**(6)** A design when registered shall be registered as of the date of the application for registration.

**6. (1)** A design may be registered in respect of any or all of the articles comprised in a prescribed class of articles.

**(2)** Any question arising as to the class within which any article falls shall be determined by the Controller whose decision in the matter shall be final.

**(3)** Where a design has been registered in respect of any article comprised in a class of article, the application of the proprietor of the design to register it in respect of some one or more other articles comprised in that class of articles shall not be refused, nor shall the registration thereof invalidated—

- (a) on the ground of the design not being a new or original design, by reason only that it was so previously registered; or

Prohibition of registration of certain designs.

Application for registration of designs.

Registration to be in respect of particular article.

(b) on the ground of the design having been previously published in India or in any other country, by reason only that it has been applied to article in respect of which it was previously registered;

Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.

(4) Where any person makes an application for the registration of a design in respect of any article and either—

(a) that design has been previously registered by another person in respect of some other article; or

(b) the design to which the application relates consists of a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof,

then, if at any time while the application is pending the applicant becomes the registered proprietor of the design previously registered, the foregoing provisions of this section shall apply as if at the time of making the application, the applicant, had been the registered proprietor of that design.

**Publication of particulars of registered designs.**

**Power of Controller to make orders regarding substitution of application, etc.**

7. The Controller shall, as soon as may be after the registration of a design, cause publication of the prescribed particulars of the design to be published in such manner as may be prescribed and thereafter the design shall be open to public inspection.

8. (1) If the Controller is satisfied on a claim made in the prescribed manner at any time before a design has been registered that by virtue of any assignment or agreement in writing made by the applicant or one of the applicants for registration of the design or by operation of law, the claimant would, if the design were then registered, be entitled thereto or to the interest of the applicant therein, or to an undivided share of the design or of that interest, the Controller may, subject to the provisions of this section, direct that the application shall proceed in the name of the claimant or in the names of the claimants and the applicant or the other joint applicant or applicants, accordingly, as the case may require.

(2) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one of two or more joint applicants for registration of a design except with the consent of the other joint applicant or applicants.

(3) No such direction as aforesaid shall be given by virtue of any assignment or agreement for the assignment of the benefit of a design unless—

(a) the design is identified therein by reference to the number of the application for the registration; or

(b) there is produced to the Controller an acknowledgment by the person by whom the assignment or agreement was made that the assignment or agreement relates to the design in respect of which that application is made; or

(c) the rights of the claimant in respect of the design have been finally established by the decision of a court; or

(d) the Controller gives directions for enabling the application to proceed or for regulating the manner in which it should be proceeded with under sub-section (5).

(4) Where one of two or more joint applicants for registration of a design dies at any time before the design has been registered, the Controller may, upon a request in that behalf made by the survivor or survivors, and with the consent of the legal representative of the deceased, direct that the application shall proceed in the name of the survivor or survivors alone.

(5) If any dispute arises between joint applicants for registration of a design whether or in what manner the application should be proceeded with, the Controller may, upon application made to him in the prescribed manner by any of the parties, and after giving to all parties concerned an opportunity to be heard, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it should be proceeded with, or for both those purposes, as the case may require.

**9. (1)** The Controller shall grant a certificate of registration to the proprietor of the design when registered.

Certificate of registration.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

**10. (1)** There shall be kept at the patent office a book called the register of designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matter as may be prescribed and such register may be maintained wholly or partly on computer floppies or diskettes, subject to such safeguards as may be prescribed.

Register of designs.

(2) Where the register is maintained wholly or partly on computer floppies or diskettes under sub-section (1), any reference in this Act to any entry in the register shall be construed as the reference to the entry so maintained on computer floppies or diskettes.

(3) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.

(4) The register of designs shall be *prima facie* evidence of any matter by this Act directed or authorized to be entered therein.

### CHAPTER III

#### COPYRIGHT IN REGISTERED DESIGNS

**11. (1)** When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during ten years from the date of registration.

Copyright on registration.

(2) If, before the expiration of the said ten years, application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of ten years.

**12. (1)** Where a design has ceased to have effect by reason of failure to pay the fee for the extension of copyright under sub-section (2) of section 11, the proprietor of such design or his legal representative and where the design was held by two or more persons jointly, then, with the leave of the Controller one or more of them without joining the others, may, within one year from the date on which the design ceased to have effect, make an application for the restoration of the design in the prescribed manner on payment of such fee as may be prescribed.

Restoration of lapsed designs.

(2) An application under this section shall contain a statement, verified in the prescribed manner, fully setting out the circumstances which led to the failure to pay the prescribed fee, and the Controller may require from the applicant such further evidence as he may think necessary.

**13. (1)** If, after hearing the applicant in cases where the applicant so desires or the Controller thinks fit, the Controller is satisfied that the failure to pay the fee for extension of the period of copyright was unintentional and that there has been no undue delay in the making of the application, the Controller shall upon payment of any unpaid fee for extension of the period of copyright together with prescribed additional fee restore the registration of design.

Procedure for disposal of applications for restoration of lapsed designs.

(2) The Controller may, if he thinks fit as a condition of restoring the design, require that any entry shall be made in the register of any document or matter which under the provisions of this Act, has to be entered in the register but which has not been so entered.

Rights of proprietor of lapsed design which have been restored.

**14. (1)** Where the registration of a design is restored, the rights of the registered proprietor shall be subject to such provisions as may be prescribed and to such other provisions as the Controller thinks fit to impose for the protection or compensation of persons who may have begun to avail themselves of, or have taken definite steps by contract or otherwise to avail themselves of, the benefit of applying the design between the date when the registration of the design ceased to have effect and the date of restoration of the registration of the design.

(2) No suit or other proceeding shall be commenced in respect of piracy of a registered design or infringement of the copyright in such design committed between the date on which the registration of the design ceased to have effect and the date of the restoration of the design.

Requirements before delivery on sales.

**15. (1)** Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

(a) (if exact representations or specimens were not furnished on the application for registration) furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may, after giving notice thereof to the proprietor, erase his name from the register and thereupon the copyright in the design shall cease; and

(b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures denoting that the design is registered; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Central Government by or on behalf of any trade or industry that in the interest of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Central Government may, if it thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as it thinks fit.

Effect of disclosure on copyright.

**16.** The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person, other than the proprietor of the design, and the acceptance of a first and confidential order for articles bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Inspection of registered designs.

**17. (1)** During the existence of copyright in a design, any person on furnishing such information as may enable the Controller to identify the design and on payment of the prescribed fee may inspect the design in the prescribed manner.

(2) Any person may, on an application to the Controller and on payment of such fee as may be prescribed, obtain a certified copy of any registered design.

Information as to existence of copyright.

**18.** On the request of any person furnishing such information as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of articles, and shall state the date of registration, and the name and address of the registered proprietor.

**19. (1)** Any person interested may present a petition for the cancellation of the registration of a design at any time after the registration of the design, to the Controller on any of the following grounds, namely:—

- (a) that the design has been previously registered in India; or
- (b) that it has been published in India or in any other country prior to the date of registration; or
- (c) that the design is not a new or original design; or
- (d) that the design is not registrable under this Act; or
- (e) that it is not a design as defined under clause (d) of section 2.

**(2)** An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

**20.** A registered design shall have to all intents the like effect as against the Government as it has against any person and the provisions of Chapter XVII of the Patents Act, 1970 shall apply to registered designs as they apply to patents.

39 of 1970.

Cancellation  
of registration.Designs to  
bind  
Government.

#### CHAPTER IV

##### INDUSTRIAL AND INTERNATIONAL EXHIBITIONS

**21.** The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the Official Gazette, or the publication of a description of the design, during or after the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof:

Provided that—

- (a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and
- (b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

#### CHAPTER V

##### LEGAL PROCEEDINGS

**22. (1)** During the existence of copyright in any design it shall not be lawful for any person—

- (a) for the purpose of sale to apply or cause to be applied to any article in any class of articles in which the design is registered, the design or any fraudulent or obvious imitation thereof, except with the licence or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or
- (b) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or
- (c) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article in any class of articles in which the design is registered

Piracy of  
registered  
design.

without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

(a) to pay to the registered proprietor of the design a sum not exceeding twenty-five thousand rupees recoverable as a contract debt, or

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed fifty thousand rupees:

Provided further that no suit or any other proceeding for relief under this sub-section shall be instituted in any court below the court of District Judge.

(3) In any suit or any other proceeding for relief under sub-section (2), every ground on which the registration of a design may be cancelled under section 19 shall be available as a ground of defence.

(4) Notwithstanding anything contained in the second proviso to sub-section (2), where any ground on which the registration of a design may be cancelled under section 19 has been availed of as a ground of defence and sub-section (3) in any suit or other proceeding for relief under sub-section (2), the suit or such other proceeding shall be transferred by the court, in which the suit or such other proceeding is pending, to the High Court for decision.

(5) When the court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

Application of certain provisions of the Act as to patents to designs.

39 of 1970.

Fees.

24. (1) There shall be paid in respect of the registration of designs and applications therefor and in respect of other matters relating to designs under this Act such fees as may be prescribed.

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

#### *Provisions as to registers and other documents in the patent office*

Notice of trust not to be entered in registers.

25. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust expressed, implied or constructive.

Inspection of and extracts from registers.

26. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act; and certified copies, sealed with the seal of the patent office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee:

Provided that where such register is maintained wholly or partly on computer, the inspection of such register under this section shall be made by inspecting the computer print out of the relevant entry in the register so maintained on computer.

**27. Reports of or to the Controller made under this Act other than the report referred to in section 45 shall not in any case be published or be open to public inspection.**

Privilege of reports of Controller.

**28. Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.**

Prohibition and publication of specification, drawings, etc., where application abandoned, etc.

**29. The Controller may, on request in writing accompanied by the prescribed fee, correct any clerical error in the representation of a design or in the name or address of the proprietor of any design, or in any other matter, which is entered upon the register of designs.**

Power of Controller to correct clerical errors.

**30. (1) Where a person becomes entitled by assignments, transmission or other operation of law to the copyright in a registered design, he may make an application in the prescribed form to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.**

Entry of assignment and transmissions in registers.

**(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a registered design, he may make an application in the prescribed form to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of designs, with particulars of the instrument, if any, creating such interest.**

**(3) For the purposes of sub-section (1) or sub-section (2), an assignment of a design or of a share in a design, a mortgage, licence or the creation of any other interest in a design shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the form of an instrument embodying all the terms and conditions governing their rights and obligation and the application for registration of title under such instrument is filed in the prescribed manner with the Controller within six months from the execution of the instrument or within such further period not exceeding six months in the aggregate as the Controller on the application made in the prescribed manner allows:**

Provided that the instrument shall, on entry of its particulars in the register under sub-section (1) or sub-section (2), have the effect from the date of its execution.

**(4) The person registered as the proprietor of a design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the design and to give effectual receipts for any consideration for any such assignment, licence or dealing:**

Provided that any equities in respect of the design may be enforced in like manner as in respect of any other movable property.

(5) Except in the case of an application made under section 31, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any court in proof of the title to copyright in a design or to any interest therein, unless the court, for reasons to be recorded in writing, otherwise directs.

Rectification  
of register.

31. (1) The Controller may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of designs of any entry, or by any entry made in such register without sufficient cause, or by any entry wrongly remaining on such register, or by an error or defect in any entry in such register, make such order for making, expunging or varying such entry as he thinks fit and rectify the register accordingly.

(2) The Controller may, in any proceeding under this section, decide any question that may be necessary or expedient to decide in connection with the rectification of a register.

(3) An appeal shall lie to the High Court from any order of the Controller under this section and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner who shall upon the receipt of such notice rectify the register accordingly.

(5) Nothing in this section shall be deemed to empower the Controller to make any such order cancelling the registration of a design as is provided for in section 19.

## CHAPTER VII

### POWERS AND DUTIES OF CONTROLLER

Powers of  
Controller in  
proceedings  
under Act.

32. Subject to any rules made in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a civil court for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court.

Exercise of  
discretionary  
power by  
Controller.

33. Where any discretionary power is by or under this Act given to the Controller, he shall not exercise that power adversely to the applicant for registration of a design without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Power of  
Controller to  
take directions  
of the Central  
Government.

34. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Central Government for directions in the matter.

Refusal to  
register a  
design in  
certain cases.

35. (1) The Controller may refuse to register a design of which the use would, in his opinion, be contrary to public order or morality.

Appeals to the  
High Court.

(2) An appeal shall lie to the High Court from an order of the Controller under this section.

36. (1) Where an appeal is declared by this Act to lie from the Controller to the High Court, the appeal shall be made within three months of the date of the order passed by the Controller.

(2) In calculating the said period of three months, the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The High Court may, if it thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the High Court shall be final.

(4) The High Court may make rules consistent with this Act as to the conduct and procedure of all proceedings under this Act before it.

## CHAPTER VIII

### EVIDENCE, ETC.

**37.** Subject to any rules made under section 44, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit.

Evidence before the Controller.

**38.** A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Act, or any rules made thereunder to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of Controller to be evidence.

**39.** Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the patent office, of documents in the patent office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in India, and in all proceedings, without further proof or production of the originals:

Evidence of documents in patent office.

Provided that a court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary.

**40.** Any application, notice or other document authorized or required to be left, made or given at the patent office or to the Controller, or to any other person under this Act, may be sent by post.

Applications and notices by post.

**41.** (1) If any person, is by reason of infancy, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

Declaration by infant, lunatic, etc.

(2) An appointment may be made by the court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

**42.** (1) It shall not be lawful to insert—

(i) in any contract for or in relation to the sale or lease of an article in respect of which a design is registered; or

(ii) in a licence to manufacture or use an article in respect of which a design is registered; or

(iii) in a licence to package the article in respect of which a design is registered, condition the effect of which may be—

(a) to require the purchaser, lessee, or licensee to acquire from the vendor, lessor, or licensor or his nominees, or to prohibit him from acquiring or to restrict in any manner or to any extent his right to acquire from any person or to prohibit him

Avoidance of certain restrictive conditions.

from acquiring except from the vendor, lessor, or licensor or his nominees any article other than the article in respect of which a design is registered; or

(b) to prohibit the purchaser, lessee or licensee from using or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee, to use an article other than the article in respect of which a design is registered which is not supplied by the vendor, lessor or licensor or his nominee,

and any such condition shall be void.

(2) A condition of the nature referred to in clause (a) or clause (b) of sub-section (1) shall not cease to be a condition falling within that sub-section merely by reason of the fact that the agreement containing it has been entered into separately, whether before or after the contract relating to the sale, lease or licence of the article in respect of which a design is registered.

(3) In proceeding against any person for any act in contravention of section 22, it shall be a defence to prove that at the time of such contravention there was in force a contract relating to the registered design and containing a condition declared unlawful by this section:

Provided that this sub-section shall not apply if the plaintiff is not a party to the contract and proves to the satisfaction of the court that the restrictive condition was inserted in the contract without his knowledge and consent, express or implied.

(4) Nothing in this section shall—

(a) affect a condition in a contract by which a person is prohibited from selling goods other than those of a particular person;

(b) validate a contract which, but for this section, would be invalid;

(c) affect a condition in a contract for the lease of, or licence to use, an article in respect of which a design is registered, by which the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the article, in respect of which a design is registered, as may be required or to put or keep it in repair.

(5) The provision of this section shall also apply to contracts made before the commencement of this Act if, and in so far as, any restrictive conditions declared unlawful by this section continue in force after the expiration of one year from such commencement.

## CHAPTER IX

### AGENCY

#### Agency.

43. (1) All applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent whose name and address had been entered in the register of patent agents maintained under section 125 of the Patents Act, 1970.

39 of 1970.

(2) The Controller may, if he sees fit, require—

(a) any such agent to be resident in India;

(b) any person not residing in India to employ an agent residing in India;

(c) the personal signature or presence of any applicant or other person.

## CHAPTER X

## POWERS, ETC., OF CENTRAL GOVERNMENT

**44. (1)** Any person who has applied for protection for any design in the United Kingdom or any of other convention countries or group of countries or countries which are members of inter-governmental organisations, or his legal representative or assignee shall, either alone or jointly with any other person, be entitled to claim that the registration of the said design under this Act shall be in priority to other applicants and shall have the same date as the date of the application in the United Kingdom or any of such other convention countries or group of countries or countries which are members of inter-governmental organisations, as the case may be:

Provided that—

(a) the application is made within six months from the application for protection in the United Kingdom or any such other convention countries or group of countries or countries which are members of inter-governmental organisations, as the case may be; and

(b) nothing in this section shall entitle the proprietor of the design to recover damages for piracy of design happening prior to the actual date on which the design is registered in India.

(2) The registration of a design shall not be invalidated by reason only of the exhibition or use of or the publication of a description or representation of the design in India during the period specified in this section as that within which the application may be made.

(3) The application for registration of a design under this section has been made in the same manner as an ordinary application under this Act.

(4) Where it is made to appear to the Central Government that the legislature of the United Kingdom or any such other convention country or a country which is member of any group of countries or inter-governmental organisation as may be notified by the Central Government in this behalf has made satisfactory provision for the protection of designs registered in India, the Central Government may, by notification in the Official Gazette, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of designs registered in the United Kingdom or that other convention country or such country which is member of any group of countries or inter-governmental organisation, as the case may be.

*Explanation 1.*—For the purposes of this section, the expression "convention countries", "group of countries" or "inter-governmental organisation" means, respectively, such countries, group of countries or inter-governmental organisation to which the Paris Convention for Protection of Industrial Property, 1883 as revised at Stockholm in 1967 and as amended in 1979 or the Final Act, embodying the results of the Uruguay Round of Multilateral Trade Negotiations, provided for the establishment of World Trade Organisation applies.

*Explanation 2.*—Where more than one application for protection referred to in sub-section (1) has been made for similar protections in the United Kingdom or one or more convention countries, group of countries or countries which are members of inter-governmental organisations, the period of six months referred to in clause (a) of that sub-section shall be reckoned from the date of which the earlier or the earliest application, as the case may be, of such applications has been made.

**45.** The Central Government shall cause to be placed before both Houses of Parliament once a year a report respecting the execution of this Act by or under the Controller.

Reciprocal arrangement with the United Kingdom and other convention countries or group of countries or inter-governmental organisations.

Report of the Controller to be placed before Parliament.

Protection of security of India.

**46. Notwithstanding anything contained in this Act, the Controller shall—**

(a) not disclose any information relating to the registration of a design or any application relating to the registration of a design under this Act, which he considers prejudicial to the interest of the security of India; and

(b) take any action regarding the cancellation of registration of such designs registered under this Act which the Central Government may, by notification in the Official Gazette, specify in the interest of the security of India.

*Explanation.*—For the purposes of this section, the expression “security of India” means any action necessary for the security of India which relates to the application of any design registered under this Act to any article used for war or applied directly or indirectly for the purposes of military establishment or for the purposes of war or other emergency in international relations.

Power of Central Government to make rules.

**47. (1) The Central Government may, by notification in the Official Gazette, 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 form of application for registration of design, the manner of filing it at the patent office and the fee which shall accompany it, under sub-section (2) of section 5;

(b) the time within which the registration is to be effected under sub-section (5) of section 5;

(c) the classification of articles for registration under sub-section (1) of section 6;

(d) the particulars of design to be published and the manner of their publication under section 7;

(e) the manner of making claim under sub-section (1) of section 8;

(f) the manner of making applications to the Controller under sub-section (5) of section 8;

(g) the additional matters required to be entered in the register of designs and the safeguards to be made in maintaining such register in computer floppies or diskettes under sub-section (1) of section 10;

(h) the manner of making application and fee to be paid for extension of the period of copyright under and the fee payable thereto, sub-section (2) of section 11;

(i) the manner of making application for restoration of design and the fee to be paid with it under sub-section (1) of section 12;

(j) the manner of verification of statement contained in an application under sub-section (2) of section 12;

(k) the additional fee to be paid for restoration of the registration of design under sub-section (1) of section 13;

(l) the provisions subject to which the right of the registered proprietor shall be under sub-section (1) of section 14;

(m) the number of exact representation or specimen of the design to be furnished to the Controller under clause (a) of sub-section (1) of section 15;

(n) the mark, words or figures with which the article is to be marked denoting that the design is registered under clause (b) of sub-section (1) of section 15;

- (o) the rules to dispense with or modify as regards any class or description of articles and any of the requirements of section 15 as to marking under sub-section (2) of that section;
- (p) the fee to be paid for and the manner of inspection under sub-section (1) of section 17;
- (q) the fee to be paid to obtain a certified copy of any design under sub-section (2) of section 17;
- (r) the fee on payment of which the Controller shall inform under section 18;
- (s) the form for giving notice to the Controller under clause (a) of the proviso to section 21;
- (t) the fee to be paid in respect of the registration of designs and application therefor, and in respect of other matters relating to designs under sub-section (1) of section 24;
- (u) the fee to be paid for giving certified copy of any entry in the register under section 26;
- (v) the fee to be accompanied with the requests in writing for correcting any clerical error under section 29;
- (w) the form in which an application for registration as proprietor shall be made and the manner in which the Controller shall cause an entry to be made in the register of the assignment, transmission or other instrument effecting the title under sub-section (1) of section 30;
- (x) the form in which an application for title shall be made and the manner in which the Controller shall cause notice of the interest to be entered in the register of designs with particulars of the instrument, if any, creating such interest under sub-section (2) of section 30;
- (y) the manner of filing an application for registration and for making application for extension of time as referred to in sub-section (3) of section 30;
- (z) the manner of making application to the Controller for rectification of register under sub-section (1) of section 31;
- (za) the manner in which the notice of rectification shall be served on the Controller under sub-section (4) of section 31;
- (zb) the rules regulating the proceedings before the Controller under section 32;
- (zc) the time which shall be granted to the applicants for being heard by the Controller under section 33;
- (zd) the fee to be accompanied with an appeal under sub-section (1) of section 36;
- (ze) any other matter which is required to be, or may be, prescribed.

(3) The power to make rules under this section shall be subject to the conditions of the rules being made after previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session 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 Act.

## CHAPTER XI

### REPEAL AND SAVING

**Repeal and saving.**

**48. (1) The Designs Act, 1911 is hereby repealed.**

2 of 1911.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897 with respect to repeals, any notification, rule, order, requirement, registration, certificate, notice, decision, determination, direction, approval, authorisation, consent, application, request or thing made, issued, given or done under the Designs Act, 1911, shall, in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

10 of 1897.

2 of 1911.

(3) The provisions of this Act shall apply to all applications for registration of designs pending at the commencement of this Act and to any proceedings consequent thereon and to any registration granted in pursuance thereof.

(4) Notwithstanding anything contained in this Act, any proceeding pending in any court at the commencement of this Act may be continued in that court as if this Act has not been passed.

(5) Notwithstanding anything contained in sub-section (2), the date of expiration of the copyright in the designs registered before the commencement of this Act shall, subject to the provisions of this Act, be the date immediately after the period of five years for which it was registered or the date immediately after the period of five years for which the extension of the period of copyright for a second period from the expiration of the original period has been made.

**THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF  
PARLIAMENT (AMENDMENT) ACT, 2000**

No. 17 OF 2000

[7th June, 2000.]

**An Act further to amend the Salary, Allowances and Pension of  
Members of Parliament Act, 1954.**

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

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2000.

Short title and  
commencement.

(2) Save as otherwise provided in this Act, it shall come into force at once.

2. In the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), in section 4,—

Amendment of  
section 4.

(a) in sub-section (1), in clause (c), in sub-clause (ii), for the first proviso, the following proviso shall be substituted, namely:—

“Provided that where the spouse of a member, if any, performs such journey or part thereof by road twice in a budget session of Parliament and once during every other session of Parliament unaccompanied by such member in respect of which such spouse has been allowed to travel by rail or air or

partly by air and partly by rail from the usual place of residence of the member to Delhi and back under sub-section (2) of section 6B, the road mileage prescribed under this sub-clause shall be allowed to such Member for such journey or part thereof.”;

(b) in sub-section (2), the following provisos shall be inserted at the end, namely:—

“Provided that the total amount of travelling allowance drawn by such member for the entire journey shall not exceed the amount which would have been admissible to him had he performed such journey by rail or by steamer, as the case may be:

Provided further that the first proviso shall be applicable to such journey only where the places of the journey are connected by express, mail or superfast train.”.

**Amendment of  
section 6B.**

**3. In section 6B of the principal Act,—**

(a) section 6B shall be renumbered as sub-section (1) thereof, and in sub-section (1) as so renumbered, after clause (ii), the following proviso shall be inserted, namely:—

“Provided that where a member has no spouse, such member may be accompanied by any person in place of the spouse, and notwithstanding anything contained in clause (i), the person so accompanying shall be entitled to every facility available to the spouse.”;

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

“(2) Notwithstanding anything contained in clause (ii) of sub-section (1), the spouse of a member shall be entitled to travel by railway in first class air-conditioned or executive class in any train or by air or partly by rail and partly by air from the usual place of the residence of the member to Delhi and back once during every session and twice in budget session of Parliament subject to the condition that total number of each such journey either to Delhi or back shall not exceed eight in a year:

Provided that where any such journey or part thereof is performed by air from any place other than usual place of residence of the member to Delhi and back, then, such spouse shall be entitled to an amount equal to the fare by air for such journey or part thereof, as the case may be, or to the amount equal to the journey performed by air from the usual place of residence of the member to Delhi and back, whichever is less.”.

**Substitution of  
new section for  
section 6D.**

**4. For section 6D of the principal Act, the following section shall be substituted, namely:—**

**Special facilities  
to blind and  
physically  
incapacitated  
members.**

“6D. A member who is blind or who is, in the opinion of the Chairman of the Council of States or, as the case may be, the Speaker of the House of the People, so incapacitated physically as to require the facility of an attendant shall, with respect to each such journey—

(i) by air as is referred to in clause (b) of sub-section (1) of section 4 or clause (b) of sub-section (1) or sub-section (2) of section 5 or section 6C which he performs along with an attendant be entitled (in addition to the allowances which he is entitled under section 4 or section 5 or, as the case may be, section 6C) to an amount equal to one fare by air for such journey;

(ii) by rail as is referred to in section 4, section 5, section 6 or section 6B be allowed the facility of one free railway pass for an attendant, to attend such member, in the same class in which such member travels in lieu of one free

air-conditioned two-tier class railway pass under clause (i) of sub-section (1) of section 6B.”.

5. In section 8 of the principal Act, the following provisos shall be inserted and shall be deemed to have been inserted at the end with effect from the 26th day of April, 1999, namely:—

Amendment of  
section 8.

“Provided that where the House of the People is sooner dissolved before completing five years from the date appointed for its first meeting, the member of such House may be allowed without payment, to such extent of the quota of free telephone calls or free units of electricity or free units in kilolitres of water, available to him for a year in which such dissolution of such House takes place, as remains unutilised on the date of such dissolution, to avail during the period commencing on and from the date of such dissolution and ending on the date immediately preceding the date on which the notification under section 73 of the Representation of the People Act, 1951 has been issued for the constitution of subsequent House of the People subject to the condition that such member shall be liable to pay for any telephone calls, in excess of the calls so allowed to be made during such period on the telephone provided to him by the Government for such purpose, and units of electricity or kilolitres of water consumed in excess of the free electricity or kilolitres of water allowed:

Provided further that where the member referred to in the first proviso becomes member of the subsequent House of the People as referred to be constituted in that proviso, then, he shall be entitled for the adjustment of the excess telephone calls, units of electricity, kilolitres of water for the payment of which he is liable under the first proviso against the quota of free telephone calls, units of electricity and kilolitres of water for which he is entitled during the first year of the duration of such subsequent House of the People.”.

43 of 1951.

**THE LEADERS AND CHIEF WHIPS OF RECOGNISED PARTIES  
AND GROUPS IN PARLIAMENT (FACILITIES)  
AMENDMENT ACT, 2000**

**No. 18 OF 2000**

[7th June, 2000.]

**An Act to amend the Leaders and Chief Whips of Recognised Parties and  
Groups in Parliament (Facilities) Act, 1998.**

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

Short title and  
commencement.

1. (1) This Act may be called the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Act, 2000.

(2) Save as otherwise provided in this Act, it shall come into force at once.

Amendment  
of section 1.

2. In the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 (hereinafter referred to as the principal Act), in section 1, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted on and from the 5th day of February, 1999, namely:—

“(2) It shall be deemed to have come into force on the 5th day of February, 1999.”.

Substitution of  
new section for  
section 2.  
Definitions.

3. For section 2 of the principal Act, the following section shall be substituted, namely:—

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

(a) “recognised group” means,—

(i) in relation to the Council of States, every party which has a strength of not less than fifteen members and not more than twenty-four

5 of 1999.

members in the Council;

(ii) in relation to the House of the People, every party which has a strength of not less than thirty members and not more than fifty-four members in the House;

(b) "recognised party" means,—

(i) in relation to the Council of States, every party which has a strength of not less than twenty-five members in the Council;

(ii) in relation to the House of the People, every party which has a strength of not less than fifty-five members in the House.”.

**4.** For section 3 of the principal Act, the following section shall be substituted, namely :—

"3. Subject to any rules made in this behalf by the Central Government, each leader, deputy leader and each Chief Whip of a recognised group and a recognised party shall be entitled to telephone and secretarial facilities:

Provided that such facilities shall not be provided to such leader, deputy leader or Chief Whip, as the case may be, who—

58 of 1952.

(i) holds an office of Minister as defined in section 2 of the Salaries and Allowances of Ministers Act, 1952;

33 of 1977.

(ii) holds an office of the Leader of the Opposition as defined in section 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977; or

(iii) is entitled to similar telephone and secretarial facilities by virtue of holding any office of, or representation in, a Parliamentary Committee or other Committee, Council, Board, Commission or other body set up by the Government; or

(iv) is entitled to similar telephone and secretarial facilities provided to him in any other capacity by the Government or a local authority or Corporation owned or controlled by the Government or any local authority.”.

**5.** In the Parliament (Prevention of Disqualification) Act, 1959, in section 3, in clause (ac), for the words "each leader", the words "each leader and each deputy leader" shall be substituted.

Substitution of new section for section 3.

Facilities to the Leaders and Chief Whips of recognised groups and parties.

**6.** The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Telephone and Secretarial Facilities) Rules, 1999 published in the Gazette of India, Extraordinary, dated the 5th February, 1999 with the notification of the Government of India in the Ministry of Parliamentary Affairs No. G.S.R. 66(E), dated the 4th February, 1999 (hereinafter referred to as the said Rules) shall be deemed to have and to have always had effect on and from the 5th day of February, 1999 as if the amendments made by section 2 had been in force at all material times and accordingly any action taken or anything done or purported to have been taken or done under the said Rules during the period commencing on and from the 5th day of February, 1999 and ending with the day on which the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Act, 2000 receives the assent of the President shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the said Rules had been in force at all material times.

Amendment of section 3 of Act 10 of 1959.

Validation of rules and certain actions.

## **THE COTTON TEXTILES CESS (REPEAL) ACT, 2000**

**No. 19 OF 2000**

**[9th June, 2000.]**

**An Act to repeal the Cotton Textiles Cess Act, 1948.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**1. This Act may be called the Cotton Textiles Cess (Repeal) Act, 2000.**

**Short title.**

**2. The Cotton Textiles Cess Act, 1948 is hereby repealed.**

**Repeal of Act  
7 of 1948.**

**THE DIRECT-TAX LAWS (MISCELLANEOUS)  
REPEAL ACT, 2000**

**No. 20 OF 2000**

**[9th June, 2000.]**

**An Act to repeal certain enactments relating to direct taxes.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**1. This Act may be called the Direct-tax Laws (Miscellaneous) Repeal Act, 2000.**

**Short title.**

**2. The enactments specified in the Schedule are hereby repealed.**

**Repeal of  
certain  
enactments.**

**3. (1) The repeal by this Act of any enactment shall not—**

**Savings.**

**(a) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;**

**(b) affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, immunity, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;**

(c) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

(d) revive or restore any jurisdiction, office, custom, liability, right, title, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(2) The mention of particular matters in sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

10 of 1897.

## THE SCHEDULE

(See section 2)

## REPEALS

Year	Number	Short title
1926	3	The Government Trading Taxation Act, 1926.
1940	XV	The Excess Profits Tax Act, 1940.
1947	XXI	The Business Profits Tax Act, 1947.
1947	XXX	The Taxation on Income (Investigation Commission) Act, 1947.
1949	22	The Payment of Taxes (Transfer of Property) Act, 1949.
1949	67	The Taxation Laws (Extension to Merged States and Amendment) Act, 1949.
1953	34	The Estate Duty Act, 1953.
1954	38	The Madhya Bharat Taxes on Income (Validation) Act, 1954.
1962	9	The Estate Duty (Distribution) Act, 1962.
1965	1	The Income-tax (Amendment) Act, 1965.
1971	37	The Central Board of Direct Taxes (Validation of Proceedings) Act, 1971.
1971	62	The Companies (Surcharge on Income-tax) Act, 1971.
1976	8	The Voluntary Disclosure of Income and Wealth Act, 1976.
1981	7	The Special Bearer Bonds (Immunities and Exemptions) Act, 1981.
1991	47	The Voluntary Deposits (Immunities and Exemptions) Act, 1991.
1942	LX	The Income-tax and Excess Profits Tax (Emergency) Ordinance, 1942.
1943	IV	The Income-tax Proceedings Validity Ordinance, 1943.
1943	XVI	The Excess Profits Tax Ordinance, 1943.

# THE INFORMATION TECHNOLOGY ACT, 2000

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# THE INFORMATION TECHNOLOGY ACT, 2000

No. 21 OF 2000

[9th June, 2000.]

An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Bankers' Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.

WHEREAS the General Assembly of the United Nations by resolution A/RES/51/162, dated the 30th January, 1997 has adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law;

AND WHEREAS the said resolution recommends *inter alia* that all States give favourable consideration to the said Model Law when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

AND WHEREAS it is considered necessary to give effect to the said resolution and to promote efficient delivery of Government services by means of reliable electronic records.

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

## CHAPTER I

### PRELIMINARY

**1. (1) This Act may be called the Information Technology Act, 2000.**

**(2) It shall extend to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.**

Short title,  
extent,  
commencement  
and application.

\*

(3) 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 and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

(4) Nothing in this Act shall apply to,—

- (a) a negotiable instrument as defined in section 13 of the Negotiable Instruments Act, 1881;
- (b) a power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882;
- (c) a trust as defined in section 3 of the Indian Trusts Act, 1882;
- (d) a will as defined in clause (h) of section 2 of the Indian Succession Act, 1925 including any other testamentary disposition by whatever name called;
- (e) any contract for the sale or conveyance of immovable property or any interest in such property;
- (f) any such class of documents or transactions as may be notified by the Central Government in the Official Gazette.

**Definitions.**

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

- (a) "access" with its grammatical variations and cognate expressions means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function resources of a computer, computer system or computer network;
- (b) "addressee" means a person who is intended by the originator to receive the electronic record but does not include any intermediary;
- (c) "adjudicating officer" means an adjudicating officer appointed under sub-section (1) of section 46;
- (d) "affixing digital signature" with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of digital signature;
- (e) "appropriate Government" means as respects any matter,—
  - (i) enumerated in List II of the Seventh Schedule to the Constitution;
  - (ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution,
- the State Government and in any other case, the Central Government;
- (f) "asymmetric crypto system" means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;
- (g) "Certifying Authority" means a person who has been granted a licence to issue a Digital Signature Certificate under section 24;
- (h) "certification practice statement" means a statement issued by a Certifying Authority to specify the practices that the Certifying Authority employs in issuing Digital Signature Certificates;
- (i) "computer" means any electronic magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network;

\* 17.10.2000! Kick notification No. S.S.R. 788(E), dt. 17.10.2000  
 \* Subs. by Act 55 of 2002, s. 12 (w.e.f. 6.2.2003)

(j) "computer network" means the interconnection of one or more computers through—

(i) the use of satellite, microwave, terrestrial line or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained;

(k) "computer resource" means computer, computer system, computer network, data, computer data base or software;

(l) "computer system" means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

(m) "Controller" means the Controller of Certifying Authorities appointed under sub-section (1) of section 17;

(n) "Cyber Appellate Tribunal" means the Cyber Regulations Appellate Tribunal established under sub-section (1) of section 48;

(o) "data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

(p) "digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;

(q) "Digital Signature Certificate" means a Digital Signature Certificate issued under sub-section (4) of section 35;

(r) "electronic form" with reference to information means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

(s) "Electronic Gazette" means the Official Gazette published in the electronic form;

(t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

(u) "function", in relation to a computer, includes logic, control, arithmetical process, deletion, storage and retrieval and communication or telecommunication from or within a computer;

(v) "information" includes data, text, images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche;

(w) "intermediary" with respect to any particular electronic message means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message;

(x) "key pair", in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;

(y) "law" includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under article 240, Bills enacted as President's Act under sub-clause (a) of clause (1) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;

(z) "licence" means a licence granted to a Certifying Authority under section 24;

(za) "originator" means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;

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

(zc) "private key" means the key of a key pair used to create a digital signature;

(zd) "public key" means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;

(ze) "secure system" means computer hardware, software, and procedure that—

(a) are reasonably secure from unauthorised access and misuse;

(b) provide a reasonable level of reliability and correct operation;

(c) are reasonably suited to performing the intended functions; and

(d) adhere to generally accepted security procedures;

(zf) "security procedure" means the security procedure prescribed under section 16 by the Central Government;

(zg) "subscriber" means a person in whose name the Digital Signature Certificate is issued;

(zh) "verify" in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions means to determine whether—

(a) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;

(b) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment 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.

## CHAPTER II

### DIGITAL SIGNATURE

Authentication  
of electronic  
records.

3. (1) Subject to the provisions of this section any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

*Explanation.*—For the purposes of this sub-section, "hash function" means an algorithm mapping or translation of one sequence of bits into another, generally smaller,

set known as "hash result" such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible—

(a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;

(b) that two electronic records can produce the same hash result using the algorithm.

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

### CHAPTER III

#### ELECTRONIC GOVERNANCE

4. Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is—

Legal  
recognition of  
electronic  
records.

(a) rendered or made available in an electronic form; and

(b) accessible so as to be usable for a subsequent reference.

Legal  
recognition of  
digital  
signatures.

5. Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of digital signature affixed in such manner as may be prescribed by the Central Government.

*Explanation.*—For the purposes of this section, "signed", with its grammatical variations and cognate expressions, shall, with reference to a person, mean affixing of his hand written signature or any mark on any document and the expression "signature" shall be construed accordingly.

6. (1) Where any law provides for—

Use of  
electronic  
records and  
digital  
signatures in  
Government  
and its  
agencies.

(a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate Government in a particular manner;

(b) the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;

(c) the receipt or payment of money in a particular manner,

then, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe—

(a) the manner and format in which such electronic records shall be filed, created or issued;

(b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record under clause (a).

Retention of electronic records.

**7. (1)** Where any law provides that documents, records or information shall be retained for any specific period, then, that requirement shall be deemed to have been satisfied if such documents, records or information are retained in the electronic form, if—

(a) the information contained therein remains accessible so as to be usable for a subsequent reference;

(b) the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the information originally generated, sent or received;

(c) the details which will facilitate the identification of the origin, destination, date and time of despatch or receipt of such electronic record are available in the electronic record:

Provided that this clause does not apply to any information which is automatically generated solely for the purpose of enabling an electronic record to be despatched or received.

**(2)** Nothing in this section shall apply to any law that expressly provides for the retention of documents, records or information in the form of electronic records.

Publication of rule, regulation, etc., in Electronic Gazette.

**8.** Where any law provides that any rule, regulation, order, bye-law, notification or any other matter shall be published in the Official Gazette, then, such requirement shall be deemed to have been satisfied if such rule, regulation, order, bye-law, notification or any other matter is published in the Official Gazette or Electronic Gazette:

Provided that where any rule, regulation, order, bye-law, notification or any other matter is published in the Official Gazette or Electronic Gazette, the date of publication shall be deemed to be the date of the Gazette which was first published in any form.

Sections 6, 7 and 8 not to confer right to insist document should be accepted in electronic form.

Power to make rules by Central Government in respect of digital signature.

**9.** Nothing contained in sections 6, 7 and 8 shall confer a right upon any person to insist that any Ministry or Department of the Central Government or the State Government or any authority or body established by or under any law or controlled or funded by the Central or State Government should accept, issue, create, retain and preserve any document in the form of electronic records or effect any monetary transaction in the electronic form.

**10.** The Central Government may, for the purposes of this Act, by rules, prescribe—

(a) the type of digital signature;

(b) the manner and format in which the digital signature shall be affixed;

(c) the manner or procedure which facilitates identification of the person affixing the digital signature;

(d) control processes and procedures to ensure adequate integrity, security and confidentiality of electronic records or payments; and

(e) any other matter which is necessary to give legal effect to digital signatures.

## CHAPTER IV

### ATTRIBUTION, ACKNOWLEDGMENT AND DESPATCH OF ELECTRONIC RECORDS

Attribution of electronic records.

**11.** An electronic record shall be attributed to the originator—

(a) if it was sent by the originator himself;

(b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or

(c) by an information system programmed by or on behalf of the originator to operate automatically.

**12. (1)** Where the originator has not agreed with the addressee that the acknowledgment of receipt of electronic record be given in a particular form or by a particular method, an acknowledgment may be given by—

Acknowledgment of receipt.

(a) any communication by the addressee, automated or otherwise; or

(b) any conduct of the addressee, sufficient to indicate to the originator that the electronic record has been received.

**(2)** Where the originator has stipulated that the electronic record shall be binding only on receipt of an acknowledgment of such electronic record by him, then unless acknowledgment has been so received, the electronic record shall be deemed to have been never sent by the originator.

**(3)** Where the originator has not stipulated that the electronic record shall be binding only on receipt of such acknowledgment, and the acknowledgment has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed to within a reasonable time, then the originator may give notice to the addressee stating that no acknowledgment has been received by him and specifying a reasonable time by which the acknowledgment must be received by him and if no acknowledgment is received within the aforesaid time limit he may after giving notice to the addressee, treat the electronic record as though it has never been sent.

**13. (1)** Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

Time and place of despatch and receipt of electronic record.

**(2)** Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,—

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

**(3)** Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be despatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

**(4)** The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

**(5)** For the purposes of this section,—

(a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) "usual place of residence", in relation to a body corporate, means the place where it is registered.

## CHAPTER V

### SECURE ELECTRONIC RECORDS AND SECURE DIGITAL SIGNATURES

Secure electronic record.

**14.** Where any security procedure has been applied to an electronic record at a specific point of time, then such record shall be deemed to be a secure electronic record from such point of time to the time of verification.

Secure digital signature.

**15.** If, by application of a security procedure agreed to by the parties concerned, it can be verified that a digital signature, at the time it was affixed, was—

- (a) unique to the subscriber affixing it;
- (b) capable of identifying such subscriber;

(c) created in a manner or using a means under the exclusive control of the subscriber and is linked to the electronic record to which it relates in such a manner that if the electronic record was altered the digital signature would be invalidated, then such digital signature shall be deemed to be a secure digital signature.

Security procedure.

**16.** The Central Government shall for the purposes of this Act prescribe the security procedure having regard to commercial circumstances prevailing at the time when the procedure was used, including—

- (a) the nature of the transaction;
- (b) the level of sophistication of the parties with reference to their technological capacity;
- (c) the volume of similar transactions engaged in by other parties;
- (d) the availability of alternatives offered to but rejected by any party;
- (e) the cost of alternative procedures; and
- (f) the procedures in general use for similar types of transactions or communications.

## CHAPTER VI

### REGULATION OF CERTIFYING AUTHORITIES

Appointment of Controller and other officers.

**17.** (1) The Central Government may, by notification in the Official Gazette, appoint a Controller of Certifying Authorities for the purposes of this Act and may also by the same or subsequent notification appoint such number of Deputy Controllers and Assistant Controllers as it deems fit.

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the Central Government.

(3) The Deputy Controllers and Assistant Controllers shall perform the functions assigned to them by the Controller under the general superintendence and control of the Controller.

(4) The qualifications, experience and terms and conditions of service of Controller, Deputy Controllers and Assistant Controllers shall be such as may be prescribed by the Central Government.

(5) The Head Office and Branch Office of the office of the Controller shall be at such places as the Central Government may specify, and these may be established at such places as the Central Government may think fit.

(6) There shall be a seal of the Office of the Controller.

Functions of Controller.

**18.** The Controller may perform all or any of the following functions, namely:—

- (a) exercising supervision over the activities of the Certifying Authorities;
- (b) certifying public keys of the Certifying Authorities;
- (c) laying down the standards to be maintained by the Certifying Authorities;

- (a) specifying the qualifications and experience which employees of the Certifying Authorities should possess;
- (e) specifying the conditions subject to which the Certifying Authorities shall conduct their business;
- (f) specifying the contents of written, printed or visual materials and advertisements that may be distributed or used in respect of a Digital Signature Certificate and the public key;
- (g) specifying the form and content of a Digital Signature Certificate and the key;
- (h) specifying the form and manner in which accounts shall be maintained by the Certifying Authorities;
- (i) specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them;
- (j) facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems;
- (k) specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers;
- (l) resolving any conflict of interests between the Certifying Authorities and the subscribers;
- (m) laying down the duties of the Certifying Authorities;
- (n) maintaining a data base containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

**19. (1)** Subject to such conditions and restrictions as may be specified by regulations, the Controller may with the previous approval of the Central Government, and by notification in the Official Gazette, recognise any foreign Certifying Authority as a Certifying Authority for the purposes of this Act.

Recognition  
of foreign  
Certifying  
Authorities.

(2) Where any Certifying Authority is recognised under sub-section (1), the Digital Signature Certificate issued by such Certifying Authority shall be valid for the purposes of this Act.

(3) The Controller may, if he is satisfied that any Certifying Authority has contravened any of the conditions and restrictions subject to which it was granted recognition under sub-section (1) he may, for reasons to be recorded in writing, by notification in the Official Gazette, revoke such recognition.

**20. (1)** The Controller shall be the repository of all Digital Signature Certificates issued under this Act.

Controller  
to act as  
repository.

(2) The Controller shall—

- (a) make use of hardware, software and procedures that are secure from intrusion and misuse;
- (b) observe such other standards as may be prescribed by the Central Government,

to ensure that the secrecy and security of the digital signatures are assured.

(3) The Controller shall maintain a computerised data base of all public keys in such a manner that such data base and the public keys are available to any member of the public.

**21. (1)** Subject to the provisions of sub-section (2), any person may make an application, to the Controller, for a licence to issue Digital Signature Certificates.

(2) No licence shall be issued under sub-section (1), unless the applicant fulfills such requirements with respect to qualification, expertise, manpower, financial resources and other infrastructure facilities, which are necessary to issue Digital Signature Certificates as may be prescribed by the Central Government.

Licence to issue  
Digital Signa-  
ture Certificates.

(3) A licence granted under this section shall—

- (a) be valid for such period as may be prescribed by the Central Government;
- (b) not be transferable or heritable;
- (c) be subject to such terms and conditions as may be specified by the regulations.

Application for  
licence.

22. (1) Every application for issue of a licence shall be in such form as may be prescribed by the Central Government.

(2) Every application for issue of a licence shall be accompanied by—

- (a) a certification practice statement;
- (b) a statement including the procedures with respect to identification of the applicant;
- (c) payment of such fees, not exceeding twenty-five thousand rupees as may be prescribed by the Central Government;
- (d) such other documents, as may be prescribed by the Central Government.

Renewal of  
licence.

23. An application for renewal of a licence shall be—

- (a) in such form;
- (b) accompanied by such fees, not exceeding five thousand rupees,

as may be prescribed by the Central Government and shall be made not less than forty-five days before the date of expiry of the period of validity of the licence.

Procedure for  
grant or  
rejection of  
licence.

24. The Controller may, on receipt of an application under sub-section (1) of section 21, after considering the documents accompanying the application and such other factors, as he deems fit, grant the licence or reject the application:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

Suspension of  
licence.

25. (1) The Controller may, if he is satisfied after making such inquiry, as he may think fit, that a Certifying Authority has,—

- (a) made a statement in, or in relation to, the application for the issue or renewal of the licence, which is incorrect or false in material particulars;
- (b) failed to comply with the terms and conditions subject to which the licence was granted;
- (c) failed to maintain the standards specified under clause (b) of sub-section (2) of section 20;
- (d) contravened any provisions of this Act, rule, regulation or order made thereunder,

revoke the licence:

Provided that no licence shall be revoked unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed revocation.

(2) The Controller may, if he has reasonable cause to believe that there is any ground for revoking a licence under sub-section (1), by order suspend such licence pending the completion of any inquiry ordered by him:

Provided that no licence shall be suspended for a period exceeding ten days unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed suspension.

Subs. by notification No. S.O. 1015(E), dated 19-9-2002

(w.e.f. 19-9-2002)

(3) No Certifying Authority whose licence has been suspended shall issue any Digital Signature Certificate during such suspension.

**26. (1)** Where the licence of the Certifying Authority is suspended or revoked, the Controller shall publish notice of such suspension or revocation, as the case may be, in the data base maintained by him.

(2) Where one or more repositories are specified, the Controller shall publish notices of such suspension or revocation, as the case may be, in all such repositories:

Provided that the data base containing the notice of such suspension or revocation, as the case may be, shall be made available through a web site which shall be accessible round the clock:

Provided further that the Controller may, if he considers necessary, publicise the contents of data base in such electronic or other media, as he may consider appropriate.

**27.** The Controller may, in writing, authorise the Deputy Controller, Assistant Controller or any officer to exercise any of the powers of the Controller under this Chapter.

**28. (1)** The Controller or any officer authorised by him in this behalf shall take up for investigation any contravention of the provisions of this Act, rules or regulations made thereunder.

(2) The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act, 1961 and shall exercise such powers, subject to such limitations laid down under that Act.

**29. (1)** Without prejudice to the provisions of sub-section (1) of section 69, the Controller or any person authorised by him shall, if he has reasonable cause to suspect that any contravention of the provisions of this Act, rules or regulations made thereunder has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

(2) For the purposes of sub-section (1), the Controller or any person authorised by him may, by order, direct any person in charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary.

**30. Every Certifying Authority shall,—**

(a) make use of hardware, software and procedures that are secure from intrusion and misuse;

(b) provide a reasonable level of reliability in its services which are reasonably suited to the performance of intended functions;

(c) adhere to security procedures to ensure that the secrecy and privacy of the digital signatures are assured; and

(d) observe such other standards as may be specified by regulations.

**31. Every Certifying Authority shall ensure that every person employed or otherwise engaged by it complies, in the course of his employment or engagement, with the provisions of this Act, rules, regulations and orders made thereunder.**

**32. Every Certifying Authority shall display its licence at a conspicuous place of the premises in which it carries on its business.**

**33. (1) Every Certifying Authority whose licence is suspended or revoked shall immediately after such suspension or revocation, surrender the licence to the Controller.**

(2) Where any Certifying Authority fails to surrender a licence under sub-section (1), the person in whose favour a licence is issued, shall be guilty of an offence and shall be punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both.

Notice of suspension or revocation of licence.

Power to delegate.

Power to investigate contraventions.

Access to computers and data.

Certifying Authority to follow certain procedures.

Certifying Authority to ensure compliance of the Act, etc.

Display of licence.

Surrender of licence.

Disclosure.

**34. (1)** Every Certifying Authority shall disclose in the manner specified by regulations—

(a) its Digital Signature Certificate which contains the public key corresponding to the private key used by that Certifying Authority to digitally sign another Digital Signature Certificate;

(b) any certification practice statement relevant thereto;

(c) notice of the revocation or suspension of its Certifying Authority certificate, if any; and

(d) any other fact that materially and adversely affects either the reliability of a Digital Signature Certificate, which that Authority has issued, or the Authority's ability to perform its services.

**(2)** Where in the opinion of the Certifying Authority any event has occurred or any situation has arisen which may materially and adversely affect the integrity of its computer system or the conditions subject to which a Digital Signature Certificate was granted, then, the Certifying Authority shall—

(a) use reasonable efforts to notify any person who is likely to be affected by that occurrence; or

(b) act in accordance with the procedure specified in its certification practice statement to deal with such event or situation.

## CHAPTER VII

### DIGITAL SIGNATURE CERTIFICATES

Certifying Authority to issue Digital Signature Certificate.

**35. (1)** Any person may make an application to the Certifying Authority for the issue of a Digital Signature Certificate in such form as may be prescribed by the Central Government.

**(2)** Every such application shall be accompanied by such fee not exceeding twenty-five thousand rupees as may be prescribed by the Central Government, to be paid to the Certifying Authority:

Provided that while prescribing fees under sub-section (2) different fees may be prescribed for different classes of applicants.

**(3)** Every such application shall be accompanied by a certification practice statement or where there is no such statement, a statement containing such particulars, as may be specified by regulations.

**(4)** On receipt of an application under sub-section (1), the Certifying Authority may, after consideration of the certification practice statement or the other statement under sub-section (3) and after making such enquiries as it may deem fit, grant the Digital Signature Certificate or for reasons to be recorded in writing, reject the application:

Provided that no Digital Signature Certificate shall be granted unless the Certifying Authority is satisfied that—

(a) the applicant holds the private key corresponding to the public key to be listed in the Digital Signature Certificate;

(b) the applicant holds a private key, which is capable of creating a digital signature;

(c) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the applicant:

Provided further that no application shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against the proposed rejection.

**36.** A Certifying Authority while issuing a Digital Signature Certificate shall certify that—

- (a) it has complied with the provisions of this Act and the rules and regulations made thereunder;
- (b) it has published the Digital Signature Certificate or otherwise made it available to such person relying on it and the subscriber has accepted it;
- (c) the subscriber holds the private key corresponding to the public key, listed in the Digital Signature Certificate;
- (d) the subscriber's public key and private key constitute a functioning key pair;
- (e) the information contained in the Digital Signature Certificate is accurate; and
- (f) it has no knowledge of any material fact, which if it had been included in the Digital Signature Certificate would adversely affect the reliability of the representations made in clauses (a) to (d).

**37.** (1) Subject to the provisions of sub-section (2), the Certifying Authority which has issued a Digital Signature Certificate may suspend such Digital Signature Certificate,—

- (a) on receipt of a request to that effect from—

- (i) the subscriber listed in the Digital Signature Certificate; or
- (ii) any person duly authorised to act on behalf of that subscriber;

(b) if it is of opinion that the Digital Signature Certificate should be suspended in public interest.

(2) A Digital Signature Certificate shall not be suspended for a period exceeding fifteen days unless the subscriber has been given an opportunity of being heard in the matter.

(3) On suspension of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

**38.** (1) A Certifying Authority may revoke a Digital Signature Certificate issued by it—

- (a) where the subscriber or any other person authorised by him makes a request to that effect; or
- (b) upon the death of the subscriber; or
- (c) upon the dissolution of the firm or winding up of the company where the subscriber is a firm or a company.

(2) Subject to the provisions of sub-section (3) and without prejudice to the provisions of sub-section (1), a Certifying Authority may revoke a Digital Signature Certificate which has been issued by it at any time, if it is of opinion that—

- (a) a material fact represented in the Digital Signature Certificate is false or has been concealed;
- (b) a requirement for issuance of the Digital Signature Certificate was not satisfied;
- (c) the Certifying Authority's private key or security system was compromised in a manner materially affecting the Digital Signature Certificate's reliability;
- (d) the subscriber has been declared insolvent or dead or where a subscriber is a firm or a company, which has been dissolved, wound-up or otherwise ceased to exist.

(3) A Digital Signature Certificate shall not be revoked unless the subscriber has been given an opportunity of being heard in the matter.

Representations  
upon issuance  
of  
Digital  
Signature  
Certificate.

Suspension  
of  
Digital  
Signature  
Certificate.

Revocation  
of  
Digital  
Signature  
Certificate.

(4) On revocation of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

Notice of suspension or revocation.

39. (1) Where a Digital Signature Certificate is suspended or revoked under section 37 or section 38, the Certifying Authority shall publish a notice of such suspension or revocation, as the case may be, in the repository specified in the Digital Signature Certificate for publication of such notice.

(2) Where one or more repositories are specified, the Certifying Authority shall publish notices of such suspension or revocation, as the case may be, in all such repositories.

## CHAPTER VIII

### DUTIES OF SUBSCRIBERS

Generating key pair.

40. Where any Digital Signature Certificate, the public key of which corresponds to the private key of that subscriber which is to be listed in the Digital Signature Certificate has been accepted by a subscriber, then the subscriber shall generate the key pair by applying the security procedure. *[LXXX]* *[that key]*

Acceptance of Digital Signature Certificate.

41. (1) A subscriber shall be deemed to have accepted a Digital Signature Certificate if he publishes or authorizes the publication of a Digital Signature Certificate—

(a) to one or more persons;

(b) in a repository, or

otherwise demonstrates his approval of the Digital Signature Certificate in any manner.

(2) By accepting a Digital Signature Certificate the subscriber certifies to all who reasonably rely on the information contained in the Digital Signature Certificate that—

(a) the subscriber holds the private key corresponding to the public key listed in the Digital Signature Certificate and is entitled to hold the same;

(b) all representations made by the subscriber to the Certifying Authority and all material relevant to the information contained in the Digital Signature Certificate are true;

(c) all information in the Digital Signature Certificate that is within the knowledge of the subscriber is true.

Control of private key.

42. (1) Every subscriber shall exercise reasonable care to retain control of the private key corresponding to the public key listed in his Digital Signature Certificate and take all steps to prevent its disclosure to a person not authorised to affix the digital signature of the subscriber. *[LXXX]*

(2) If the private key corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the subscriber shall communicate the same without any delay to the Certifying Authority in such manner as may be specified by the regulations.

*Explanation.*— For the removal of doubts, it is hereby declared that the subscriber shall be liable till he has informed the Certifying Authority that the private key has been compromised.

## CHAPTER IX

### PENALTIES AND ADJUDICATION

Penalty for damage to computer, computer system, etc.

43. If any person without permission of the owner or any other person who is incharge of a computer, computer system or computer network,—

(a) accesses or secures access to such computer, computer system or computer network;

↪ Omitted & Subs. by Notifications No. S.O. 1015(E), dt. 17-9-2002  
*(C.W.E.T., 19-9-2002)*

- (b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;
- (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;
- (d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;
- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;
- (g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder;
- (h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network, he shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected.

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

- (i) “computer contaminant” means any set of computer instructions that are designed—
  - (a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or
  - (b) by any means to usurp the normal operation of the computer, computer system, or computer network;
- (ii) “computer data base” means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;
- (iii) “computer virus” means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;
- (iv) “damage” means to destroy, alter, delete, add, modify or rearrange any computer resource by any means.

44. If any person who is required under this Act or any rules or regulations made thereunder to—

- (a) furnish any document, return or report to the Controller or the Certifying Authority fails to furnish the same, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;
- (b) file any return or furnish any information, books or other documents within the time specified therefor in the regulations fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;

Penalty for  
failure to  
furnish  
information,  
return, etc.

(c) maintain books of account or records, fails to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

**Residuary  
penalty.**

**43.** Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees.

**Power to  
adjudicate.**

**46.** (1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, direction or order made thereunder the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

(2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.

(3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

(5) Every adjudicating officer shall have the powers of a civil court which are conferred on the Cyber Appellate Tribunal under sub-section (2) of section 58, and—

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code;

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

**Factors to be  
taken into  
account by the  
adjudicating  
officer.**

**47.** While adjudging the quantum of compensation under this Chapter, the adjudicating officer shall have due regard to the following factors, namely:—

(a) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to any person as a result of the default;

(c) the repetitive nature of the default.

45 of 1860.

2 of 1974.

## CHAPTER X

### THE CYBER REGULATIONS APPELLATE TRIBUNAL

**Establishment  
of Cyber  
Appellate  
Tribunal.**

**48.** (1) The Central Government shall, by notification, establish one or more appellate tribunals to be known as the Cyber Regulations Appellate Tribunal.

(2) The Central Government shall also specify, in the notification referred to in sub-section (1), the matters and places in relation to which the Cyber Appellate Tribunal may exercise jurisdiction.

**Composition  
of Cyber  
Appellate  
Tribunal.**

**49.** A Cyber Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Cyber Appellate Tribunal) to be appointed, by notification, by the Central Government.

**50.** A person shall not be qualified for appointment as the Presiding Officer of a Cyber Appellate Tribunal unless he—

- (a) is, or has been, or is qualified to be, a Judge of a High Court; or
- (b) is or has been a member of the Indian Legal Service and is holding or has held a post in Grade I of that Service for at least three years.

Qualifications for appointment as Presiding Officer of the Cyber Appellate Tribunal.

**51.** The Presiding Officer of a Cyber Appellate Tribunal 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.

Term of office.

**52.** The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Presiding Officer of a Cyber Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after appointment.

Salary, allowances and other terms and conditions of service of Presiding Officer.

**53.** If, for reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of a Cyber Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Cyber Appellate Tribunal from the stage at which the vacancy is filled.

Filling up of vacancies.

**54. (1)** The Presiding Officer of a Cyber Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Resignation and removal.

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

**(2)** The Presiding Officer of a Cyber Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

**(3)** The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

**55.** No order of the Central Government appointing any person as the Presiding Officer of a Cyber Appellate Tribunal shall be called in question in any manner and no act or proceeding before a Cyber Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Cyber Appellate Tribunal.

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

**56. (1)** The Central Government shall provide the Cyber Appellate Tribunal with such officers and employees as that Government may think fit.

Staff of the Cyber Appellate Tribunal.

**(2)** The officers and employees of the Cyber Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

**(3)** The salaries, allowances and other conditions of service of the officers and employees of the Cyber Appellate Tribunal shall be such as may be prescribed by the Central Government.

Appeal to  
Cyber  
Appellate  
Tribunal.

**57.** (1) Save as provided in sub-section (2), any person aggrieved by an order made by Controller or an adjudicating officer under this Act may prefer an appeal to a Cyber Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Cyber Appellate Tribunal from an order made by an adjudicating officer with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Controller or the adjudicating officer is received by the person aggrieved and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Cyber Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Cyber 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 setting aside the order appealed against:

(5) The Cyber Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Controller or adjudicating officer.

(6) The appeal filed before the Cyber Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and  
powers of the  
Cyber  
Appellate  
Tribunal.

5 of 1908.

**58.** (1) The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Cyber Appellate Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The Cyber Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) any other matter which may be prescribed.

(3) Every proceeding before the Cyber Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Cyber 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.

45 of 1860.

2 of 1974.

Right to legal  
representation.

**59.** The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Cyber Appellate Tribunal.

36 of 1963.

60. The provisions of the Limitation Act, 1963, shall, as far as may be, apply to an appeal made to the Cyber Appellate Tribunal.

Limitation.

61. No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Cyber Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Civil court not to have jurisdiction.

62. Any person aggrieved by any decision or order of the Cyber Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Cyber Appellate Tribunal to him on any question of fact or law arising out of such order:

Appeal to High Court.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

[Act 74]

63. (1) Any contravention under this Chapter may, either before or after the institution of adjudication proceedings, be compounded by the Controller or such other officer as may be specially authorised by him in this behalf or by the adjudicating officer, as the case may be, subject to such conditions as the Controller or such other officer or the adjudicating officer may specify:

Compounding of contraventions.

Provided that such sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed under this Act for the contravention so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar contravention within a period of three years from the date on which the first contravention, committed by him, was compounded.

*Explanation.*—For the purposes of this sub-section, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Where any contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the person guilty of such contravention in respect of the contravention so compounded.

64. A penalty imposed under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the licence or the Digital Signature Certificate, as the case may be, shall be suspended till the penalty is paid.

Recovery of penalty.

## CHAPTER XI

### OFFENCES

65. Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Tampering with computer source documents.

*Explanation.*—For the purposes of this section, “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

66. (1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hacking.

Hacking with computer system.

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend upto two lakh rupees, or with both.

67. Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees.

Publishing of information which is obscene in electronic form.

↑ Subs. by notification no. S.O. 1015 (E), dt. 19-9-2002 (w.e.f. 19-9-2002)

Power of Controller to give directions.

**68. (1)** The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made thereunder.

**(2)** Any person who fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding two lakh rupees or to both.

Directions of Controller to a subscriber to extend facilities to decrypt information.

**69. (1)** If the Controller is satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence, for reasons to be recorded in writing, by order, direct any agency of the Government to intercept any information transmitted through any computer resource.

**(2)** The subscriber or any person in charge of the computer resource shall, when called upon by any agency which has been directed under sub-section (1), extend all facilities and technical assistance to decrypt the information.

**(3)** The subscriber or any person who fails to assist the agency referred to in sub-section (2) shall be punished with an imprisonment for a term which may extend to seven years.

Protected system.

**70. (1)** The appropriate Government may, by notification in the Official Gazette, declare that any computer, computer system or computer network to be a protected system.

**(2)** The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1).

**(3)** Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Penalty for misrepresentation.

**71.** Whoever makes any misrepresentation to, or suppresses any material fact from, the Controller or the Certifying Authority for obtaining any licence or Digital Signature Certificate, as the case may be, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

Penalty for breach of confidentiality and privacy.

**72.** Save as otherwise provided in this Act or any other law for the time being in force, any person who, in pursuance of any of the powers conferred under this Act, rules or regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

Penalty for publishing Digital Signature Certificate false in certain particulars.

**73. (1)** No person shall publish a Digital Signature Certificate or otherwise make it available to any other person with the knowledge that—

- (a) the Certifying Authority listed in the certificate has not issued it; or
- (b) the subscriber listed in the certificate has not accepted it; or
- (c) the certificate has been revoked or suspended,

unless such publication is for the purpose of verifying a digital signature created prior to such suspension or revocation.

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

**74.** Whoever knowingly creates, publishes or otherwise makes available a Digital Signature Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

Publication for  
fraudulent  
purpose.

**75. (1)** Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

Act to apply  
for offence or  
contravention  
committed  
outside India.

**(2)** For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

Confiscation.

**76.** Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made thereunder has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of the provisions of this Act, rules, orders or regulations made thereunder, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made thereunder as it may think fit.

Penalties or  
confiscation  
not to interfere  
with other  
punishments.

**77.** No penalty imposed or confiscation made under this Act shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force.

Power to  
investigate  
offences.

2 of 1974.

**78.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Deputy Superintendent of Police shall investigate any offence under this Act.

## CHAPTER XII

### NETWORK SERVICE PROVIDERS NOT TO BE LIABLE IN CERTAIN CASES

Network  
service  
providers not to  
be liable in  
certain cases.

**79.** For the removal of doubts, it is hereby declared that no person providing any service as a network service provider shall be liable under this Act, rules or regulations made thereunder for any third party information or data made available by him if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

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

*(a) "network service provider" means an intermediary;*

*(b) "third party information" means any information dealt with by a network service provider in his capacity as an intermediary;*

## CHAPTER XIII

## MISCELLANEOUS

Power of police officer and other officers to enter, search, etc.

**80. (1)** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer, not below the rank of a Deputy Superintendent of Police, or any other officer of the Central Government or a State Government authorised by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected or having committed or of committing or of being about to commit any offence under this Act.

2 of 1974.

*Explanation.*—For the purposes of this sub-section, the expression “public place” includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.

**(2)** Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.

2 of 1974.

**(3)** The provisions of the Code of Criminal Procedure, 1973 shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section.

Act to have overriding effect.

**81.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Controller, Deputy Controller and Assistant Controllers to be public servants.

**82.** The Presiding Officer and other officers and employees of a Cyber Appellate Tribunal, the Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 186

Power to give directions.

**83.** The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule, regulation or order made thereunder.

Protection of action taken in good faith.

**84.** No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, the Presiding Officer, adjudicating officers and the staff of the Cyber Appellate Tribunal for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

Offences by companies.

**85. (1)** Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

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

**(2)** Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place 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

4 Ins. by Art. 55 of 2002, S. 13 C.W.C.A. 6.2.2003)

or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

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

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

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

86. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

87. (1) The Central Government may, by notification in the Official Gazette and in the Electronic 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:—

(a) the manner in which any information or matter may be authenticated by means of digital signature under section 5;

(b) the electronic form in which filing, issue, grant or payment shall be effected under sub-section (1) of section 6;

(c) the manner and format in which electronic records shall be filed, or issued and the method of payment under sub-section (2) of section 6;

(d) the matters relating to the type of digital signature, manner and format in which it may be affixed under section 10;

(e) the security procedure for the purpose of creating secure electronic record and secure digital signature under section 16;

(f) the qualifications, experience and terms and conditions of service of Controller, Deputy Controllers and Assistant Controllers under section 17;

(g) other standards to be observed by the Controller under clause (b) of sub-section (2) of section 20;

(h) the requirements which an applicant must fulfil under sub-section (2) of section 21;

(i) the period of validity of licence granted under clause (a) of sub-section (3) of section 21;

(j) the form in which an application for licence may be made under sub-section (1) of section 22;

(k) the amount of fees payable under clause (c) of sub-section (2) of section 22;

(l) such other documents which shall accompany an application for licence under clause (d) of sub-section (2) of section 22;

(m) the form and the fee for renewal of a licence and the fee payable thereof under section 23;

(n) the form in which application for issue of a Digital Signature Certificate may be made under sub-section (1) of section 35;

(o) the fee to be paid to the Certifying Authority for issue of a Digital Signature Certificate under sub-section (2) of section 35;

Removal of difficulties.

Power of Central Government to make rules.

- (p) the manner in which the adjudicating officer shall hold inquiry under sub-section (1) of section 46;
- (q) the qualification and experience which the adjudicating officer shall possess under sub-section (3) of section 46;
- (r) the salary, allowances and the other terms and conditions of service of the Presiding Officer under section 52;
- (s) the procedure for investigation of misbehaviour or incapacity of the Presiding Officer under sub-section (3) of section 54;
- (t) the salary and allowances and other conditions of service of other officers and employees under sub-section (3) of section 56;
- (u) the form in which appeal may be filed and the fee thereof under sub-section (3) of section 57;
- (v) any other power of a civil court required to be prescribed under clause (g) of sub-section (2) of section 58; and
- (w) any other matter which is required to be, or may be, prescribed.

(3) Every notification made by the Central Government under clause (f) of sub-section (4) of section 1 and every rule made by it 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 notification or the rule or both Houses agree that the notification or the rule should not be made, the notification or the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

**Constitution of  
Advisory  
Committee.**

88. (1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Cyber Regulations Advisory Committee.

(2) The Cyber Regulations Advisory Committee shall consist of a Chairperson and such number of other official and non-official members representing the interests principally affected or having special knowledge of the subject-matter as the Central Government may deem fit.

(3) The Cyber Regulations Advisory Committee shall advise—

(a) the Central Government either generally as regards any rules or for any other purpose connected with this Act;

(b) the Controller in framing the regulations under this Act.

(4) There shall be paid to the non-official members of such Committee such travelling and other allowances as the Central Government may fix.

**Power of  
Controller to  
make  
regulations.**

89. (1) The Controller may, after consultation with the Cyber Regulations Advisory Committee and with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

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

(a) the particulars relating to maintenance of data-base containing the disclosure record of every Certifying Authority under clause (m) of section 18;

(b) the conditions and restrictions subject to which the Controller may recognise any foreign Certifying Authority under sub-section (1) of section 19;

4 Subs. by notification No. S.O. 1015(E), dt. 19-9-2002 (w.e.f. 19-9-2002)

(c) the terms and conditions subject to which a licence may be granted under clause (c) of sub-section (3) of section 21;

(d) other standards to be observed by a Certifying Authority under clause (d) of section 30;

(e) the manner in which the Certifying Authority shall disclose the matters specified in sub-section (1) of section 34;

(f) the particulars of statement which shall accompany an application under sub-section (3) of section 35;

(g) the manner in which the subscriber shall communicate the compromise of private key to the certifying Authority under sub-section (2) of section 42.

(3) 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 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.

**90.** (1) The State 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:—

(a) the electronic form in which filing, issue, grant receipt or payment shall be effected under sub-section (1) of section 6;

(b) for matters specified in sub-section (2) of section 6;

(c) any other matter which is required to be provided by rules by the State Government.

(3) Every rule made by the State Government 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.

**91.** The Indian Penal Code shall be amended in the manner specified in the First Schedule to this Act.

**92.** The Indian Evidence Act, 1872 shall be amended in the manner specified in the Second Schedule to this Act.

**93.** The Bankers' Books Evidence Act, 1891 shall be amended in the manner specified in the Third Schedule to this Act.

**94.** The Reserve Bank of India Act, 1934 shall be amended in the manner specified in the Fourth Schedule to this Act.

Power of State  
Government to  
make rules.

Amendment of  
Act 45 of 1860.

Amendment of  
Act 1 of 1872.

Amendment of  
Act 18 of 1891.

Amendment of  
Act 2 of 1934.

## THE FIRST SCHEDULE

(See section 91)

### AMENDMENTS TO THE INDIAN PENAL CODE

(45 OF 1860)

1. After section 29, the following section shall be inserted, namely:—

“29A. The words “electronic record” shall have the meaning assigned to them in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.”.

Electronic  
record.

2. In section 167, for the words “such public servant, charged with the preparation or translation of any document, frames or translates that document”, the words “such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record” shall be substituted.

3. In section 172, for the words "produce a document in a Court of Justice", the words "produce a document or an electronic record in a Court of Justice" shall be substituted.
4. In section 173, for the words "to produce a document in a Court of Justice", the words "to produce a document or electronic record in a Court of Justice" shall be substituted.
5. In section 175, for the word "document" at both the places where it occurs, the words "document or electronic record" shall be substituted.
6. In section 192, for the words "makes any false entry in any book or record, or makes any document containing a false statement", the words "makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement" shall be substituted.
7. In section 204, for the word "document" at both the places where it occurs, the words "document or electronic record" shall be substituted.
8. In section 463, for the words "Whoever makes any false documents or part of a document with intent to cause damage or injury", the words "Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury" shall be substituted.

9. In section 464,—

(a) for the portion beginning with the words "A person is said to make a false document" and ending with the words "by reason of deception practised upon him, he does not know the contents of the document or the nature of the alteration", the following shall be substituted, namely:—

"A person is said to make a false document or false electronic record—

*First—Who dishonestly or fraudulently—*

- (a) makes, signs, seals or executes a document or part of a document;
- (b) makes or transmits any electronic record or part of any electronic record;
- (c) affixes any digital signature on any electronic record;
- (d) makes any mark denoting the execution of a document or the authenticity of the digital signature,

with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

*Secondly—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or*

*Thirdly—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.";*

(b) after *Explanation 2*, the following *Explanation* shall be inserted at the end, namely:—

*'Explanation 3.—For the purposes of this section, the expression "affixing digital signature" shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000.'*

## 10. In section 466,—

(a) for the words "Whoever forges a document", the words "Whoever forges a document or an electronic record" shall be substituted;

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

*'Explanation.—For the purposes of this section, "register" includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.'*

11. In section 468, for the words "document forged", the words "document or electronic record forged" shall be substituted.

12. In section 469, for the words "intending that the document forged", the words "intending that the document or electronic record forged" shall be substituted.

13. In section 470, for the word "document" in both the places where it occurs, the words "document or electronic record" shall be substituted.

14. In section 471, for the word "document" wherever it occurs, the words "document or electronic record" shall be substituted.

15. In section 474, for the portion beginning with the words "Whoever has in his possession any document" and ending with the words "if the document is one of the description mentioned in section 466 of this Code", the following shall be substituted, namely:—

"Whoever has in his possession any document or electronic record, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as a genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code."

16. In section 476, for the words "any document", the words "any document or electronic record" shall be substituted.

17. In section 477A, for the words "book, paper, writing" at both the places where they occur, the words "book, electronic record, paper, writing" shall be substituted.

## THE SECOND SCHEDULE

(See section 92)

## AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

(1 OF 1872)

## 1. In section 3,—

(a) in the definition of "Evidence", for the words "all documents produced for the inspection of the Court", the words "all documents including electronic records produced for the inspection of the Court" shall be substituted;

(b) after the definition of "India", the following shall be inserted, namely:—"the expressions "Certifying Authority", "digital signature", "Digital Signature Certificate", "electronic form", "electronic records", "information", "secure electronic record", "secure digital signature" and "subscriber" shall have the meanings respectively assigned to them in the Information Technology Act, 2000!".

2. In section 17, for the words "oral or documentary,", the words "oral or documentary or contained in electronic form" shall be substituted.

## 3. After section 22, the following section shall be inserted, namely:—

"22A. Oral admissions as to the contents of electronic records are not relevant, unless the genuineness of the electronic record produced is in question."

When oral admission as to contents of electronic records are relevant.

4. In section 34, for the words "Entries in the books of account", the words "Entries in the books of account, including those maintained in an electronic form" shall be substituted.

5. In section 35, for the word "record", in both the places where it occurs, the words "record or an electronic record" shall be substituted.

6. For section 39, the following section shall be substituted, namely:—

"39. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or is contained in part of electronic record or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, electronic record, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.".

7. After section 47, the following section shall be inserted, namely:—

"47A. When the Court has to form an opinion as to the digital signature of any person, the opinion of the Certifying Authority which has issued the Digital Signature Certificate is a relevant fact.".

8. In section 59, for the words "contents of documents", the words "contents of documents or electronic records" shall be substituted.

9. After section 65, the following sections shall be inserted, namely:—

'65A. The contents of electronic records may be proved in accordance with the provisions of section 65B.

65B. (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:—

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers.

Opinion as to digital signature when relevant.

Special provisions as to evidence relating to electronic record.

Admissibility of electronic records.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or,

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,—

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

*Explanation.*—For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

10. After section 67, the following section shall be inserted, namely:—

"67A. Except in the case of a secure digital signature, if the digital signature of any subscriber is alleged to have been affixed to an electronic record the fact that such digital signature is the digital signature of the subscriber must be proved."

Proof as to  
digital  
signature.

11. After section 73, the following section shall be inserted, namely:—

'73A. In order to ascertain whether a digital signature is that of the person by whom it purports to have been affixed, the Court may direct—

(a) that person or the Controller or the Certifying Authority to produce the Digital Signature Certificate;

Proof as to  
verification of  
digital  
signature.

(b) any other person to apply the public key listed in the Digital Signature Certificate and verify the digital signature purported to have been affixed by that person.

*Explanation.*—For the purposes of this section, “Controller” means the Controller appointed under sub-section (1) of section 17 of the Information Technology Act, 2000.”.

12. After section 81, the following section shall be inserted, namely:—

“81A. The Court shall presume the genuineness of every electronic record purporting to be the Official Gazette, or purporting to be electronic record directed by any law to be kept by any person, if such electronic record is kept substantially in the form required by law and is produced from proper custody.”.

13. After section 85, the following sections shall be inserted, namely:—

“85A. The Court shall presume that every electronic record purporting to be an agreement containing the digital signatures of the parties was so concluded by affixing the digital signature of the parties.

85B. (1) In any proceedings involving a secure electronic record, the Court shall presume unless contrary is proved, that the secure electronic record has not been altered since the specific point of time to which the secure status relates.

(2) In any proceedings, involving secure digital signature, the Court shall presume unless the contrary is proved that—

(a) the secure digital signature is affixed by subscriber with the intention of signing or approving the electronic record;

(b) except in the case of a secure electronic record or a secure digital signature, nothing in this section shall create any presumption relating to authenticity and integrity of the electronic record or any digital signature.

85C. The Court shall presume, unless contrary is proved, that the information listed in a Digital Signature Certificate is correct, except for information specified as subscriber information which has not been verified, if the certificate was accepted by the subscriber.”.

14. After section 88, the following section shall be inserted, namely:—

“88A. The Court may presume that an electronic message forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission; but the Court shall not make any presumption as to the person by whom such message was sent.

*Explanation.*—For the purposes of this section, the expressions “addressee” and “originator” shall have the same meanings respectively assigned to them in clauses (b) and (za) of sub-section (1) of section 2 of the Information Technology Act, 2000.”.

15. After section 90, the following section shall be inserted, namely:—

“90A. Where any electronic record, purporting or proved to be five years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the digital signature which purports to be the digital signature of any particular person was so affixed by him or any person authorised by him in this behalf.

*Explanation.*—Electronic records are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they naturally be; but no custody is improper if it is proved to have had a legitimate origin, or the circumstances of the particular case are such as to render such an origin probable.

This *Explanation* applies also to section 81A.”.

16. For section 131, the following section shall be substituted, namely:—

Presumption as to Gazettes in electronic forms.

Presumption as to electronic agreements.

Presumption as to electronic records and digital signatures.

Presumption as to Digital Signature Certificates.

Presumption as to electronic messages.

Presumption as to electronic records five years old.

"131. No one shall be compelled to produce documents in his possession or electronic records under his control, which any other person would be entitled to refuse to produce if they were in his possession or control, unless such last-mentioned person consents to their production."

Production of documents or electronic records which another person, having possession, could refuse to produce.

### THE THIRD SCHEDULE

(See section 93)

#### AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

(18 OF 1891)

##### 1. In section 2—

(a) for clause (3), the following clause shall be substituted, namely:—

'(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank whether kept in the written form or as printouts of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;

(b) for clause (8), the following clause shall be substituted, namely:—

'(8) "certified copy" means when the books of a bank,—

(a) are maintained in written form, a copy of any entry in such books together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business and that such book is still in the custody of the bank, 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; and

(b) consist of printouts of data stored in a floppy, disc, tape or any other electro-magnetic data storage device, a printout of such entry or a copy of such printout together with such statements certified in accordance with the provisions of section 2A.'

##### 2. After section 2, the following section shall be inserted, namely:—

"2A. A printout of entry or a copy of printout referred to in sub-section (8) of section 2 shall be accompanied by the following, namely:—

Conditions in the printout.

(a) a certificate to the effect that it is a printout of such entry or a copy of such printout by the principal accountant or branch manager; and

(b) a certificate by a person in-charge of computer system containing a brief description of the computer system and the particulars of—

(A) the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorised persons;

(B) the safeguards adopted to prevent and detect unauthorised change of data;

(C) the safeguards available to retrieve data that is lost due to systemic failure or any other reasons;

(D) the manner in which data is transferred from the system to removable media like floppies, discs, tapes or other electro-magnetic data storage devices;

(E) the mode of verification in order to ensure that data has been accurately transferred to such removable media;

- (F) the mode of identification of such data storage devices;
  - (G) the arrangements for the storage and custody of such storage devices;
  - (H) the safeguards to prevent and detect any tampering with the system; and
  - (I) any other factor which will vouch for the integrity and accuracy of the system.
- (c) a further certificate from the person in-charge of the computer system to the effect that to the best of his knowledge and belief, such computer system operated properly at the material time, he was provided with all the relevant data and the printout in question represents correctly, or is appropriately derived from, the relevant data.”

#### THE FOURTH SCHEDULE

(See section 94)

#### AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

In the Reserve Bank of India Act, 1934, in section 58, in sub-section (2), after clause (p), the following clause shall be inserted, namely:—

2 of 1934.

“(pp) the regulation of fund transfer through electronic means between the banks or between the banks and other financial institutions referred to in clause (c) of section 45-I, including the laying down of the conditions subject to which banks and other financial institutions shall participate in such fund transfers, the manner of such fund transfers and the rights and obligations of the participants in such fund transfers;”.

## THE MAJOR PORT TRUSTS (AMENDMENT) ACT, 2000

(No. 22 of 2000)

[9th June 2000.]

An Act further to amend the Major Port Trusts Act, 1963.

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

38 of 1963.

1. (1) This Act may be called the Major Port Trusts (Amendment) Act, 2000.

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.

Amendment of  
section 42.

2. In section 42 of the Major Port Trusts Act, 1963 (hereinafter referred to as the principal Act),—

(a) in sub-section (1),—

(i) in clause (d), the word “and” occurring at the end shall be omitted;

(ii) in clause (e), the word “and” shall be inserted at the end and after the clause as so amended, the following clause shall be inserted, namely:—

“(f) developing and providing, subject to the previous approval of the Central Government, infrastructure facilities for ports.”;

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

“(3A) Without prejudice to the provisions of sub-section (3), a Board may, with the previous approval of the Central Government, enter into any

\* 1.9.2000: Vide notifications No. G.S.R. 701(E), dt. 1.9.2000

agreement or other arrangement (whether by way of partnership, joint venture or in any other manner) with, any body corporate or any other person to perform any of the services and functions assigned to the Board under this Act on such terms and conditions as may be agreed upon.”.

Amendment of  
section 88.

3. In section 88 of the principal Act, in sub-section (2), after clause (c) and before the *Explanation*, the following clauses shall be inserted, namely:—

“(d) be invested, in any manner, in an arrangement referred to in sub-section (3A) of section 42;

(e) be invested, in any manner, in the development or management of any port including a port other than a major port on such terms and conditions as may be approved by the Central Government.”.

**THE INSECTICIDES (AMENDMENT)  
ACT, 2000**

**No. 23 OF 2000**

**[5th August, 2000]**

**An Act further to amend the Insecticides Act, 1968.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

- |             |  |                                 |
|-------------|--|---------------------------------|
| 46 of 1968. | <b>1. This Act may be called the Insecticides (Amendment) Act, 2000.</b>   | <b>Short title.</b>             |
|             | <b>2. In the Insecticides Act, 1968 (hereinafter referred to as the principal Act), in section 21, in sub-section (1), in clause (d), for the word “twenty”, the word “thirty” shall be substituted.</b>   | <b>Amendment of section 21.</b> |
|             | <b>3. In section 22 of the principal Act,—</b><br><b>(a) for sub-section (3), the following sub-section shall be substituted, namely:—</b><br><b>“(3) Where an Insecticide Inspector takes any sample of an insecticide, he shall issue a receipt therefor stating therein that the fair price of such sample shall be tendered if the sample, after test or analysis is not found to be misbranded and the Insecticide Analyst has reported to that effect and on such price having been tendered may require a written acknowledgement therefor.”;</b> | <b>Amendment of section 22.</b> |

Amendment  
of section 24.

(b) in sub-section (4), the words, brackets and figure "Where the price tendered under sub-section (3) is refused, or" shall be omitted.

**4. In section 24 of the principal Act,—**

(a) in sub-section (1), for the word "sixty", the word "thirty" shall be substituted;

(b) in sub-section (4), for the words "which shall make the test or analysis", the words "which shall, within a period of thirty days, make the test or analysis" shall be substituted.

Amendment  
of section 27.

**5. In section 27 of the principal Act, in sub-section (1), the words, brackets and figures "sub-clause (iii) of" shall be omitted.**

Amendment  
of section 29.

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

(a) in sub-section (1), for the portion beginning with the words "shall be punishable—" and ending with the words "three years, or with fine, or with both", the following shall be substituted, namely:—

"shall be punishable—

(i) for the first offence, with imprisonment for a term which may extend to two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both;

(ii) for the second and a subsequent offence, with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifteen thousand rupees but which may extend to seventy-five thousand rupees, or with both";

(b) in sub-section (2), for the words "which may extend to five hundred rupees", the words "which shall not be less than five hundred rupees but which may extend to five thousand rupees, or imprisonment for a term which may extend to six months, or with both" shall be substituted;

(c) in sub-section (3),—

(i) in clause (i), for the words "six months, or with fine, or with both", the words "one year, or with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees, or with both" shall be substituted;

(ii) in clause (ii), for the words "one year, or with fine, or with both", the words "two years, or with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with both" shall be substituted.

Insertion of  
new section  
31A.

**7. After section 31 of the principal Act, the following section shall be inserted,  
namely:—**

Special Courts.

'31A. (1) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the Official Gazette and after consultation with the High Court, notify one or more Courts of Judicial Magistrates of the first class, or, as the case may be, Metropolitan Magistrates, in such district or metropolitan area to be Special Courts for the purposes of this Act.

(2) Unless otherwise directed by the High Court, a court notified under sub-section (1) shall exercise jurisdiction only in respect of cases under this Act.

(3) Subject to the provisions of sub-section (2), the jurisdiction and powers of the presiding officer of court notified under sub-section (1) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(4) Subject to the foregoing provisions of this section, a court notified under sub-section (1) in any district or metropolitan area shall be deemed to be a court established under sub-section (1) of section 11, or, as the case may be, sub-section (1) of section 16 of the Code of Criminal Procedure, 1973 and the provisions of that Code shall apply accordingly in relation to such courts.

*Explanation.*—In this section, “High Court” has the same meaning as in clause (e) of section 2 of the Code of Criminal Procedure, 1973.”.

**THE INDIAN COMPANIES (FOREIGN INTERESTS) AND THE  
COMPANIES (TEMPORARY RESTRICTIONS ON DIVIDENDS)  
REPEAL ACT, 2000**

No. 24 OF 2000

[11th August, 2000.]

An Act to repeal the Indian Companies (Foreign Interests) Act, 1918 and the Companies (Temporary Restrictions on Dividends) Act, 1974.

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

Short title.

1. This Act may be called the Indian Companies (Foreign Interests) and the Companies (Temporary Restrictions on Dividends) Repeal Act, 2000.

Repeal of Acts  
20 of 1918 and  
35 of 1974.

2. The Indian Companies (Foreign Interests) Act, 1918 and the Companies (Temporary Restrictions on Dividends) Act, 1974 are hereby repealed.

## **THE COTTON CLOTH (REPEAL) ACT, 2000**

**No. 25 OF 2000**

**[11th August, 2000.]**

**An Act to repeal the Cotton Cloth Act, 1918.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**1. This Act may be called the Cotton Cloth (Repeal) Act, 2000.**

**Short title.**

**2. The Cotton Cloth Act, 1918 is hereby repealed.**

**Repeal of Act  
23 of 1918.**

**THE IRON AND STEEL COMPANIES (AMALGAMATION AND  
TAKEOVER LAWS) REPEAL ACT, 2000**

No. 26 OF 2000

[11th August, 2000.]

**An Act to repeal the Iron and Steel Companies Amalgamation Act, 1952  
and the Indian Iron and Steel Company (Taking Over of Management)  
Act, 1972.**

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

**Short title.**

**1. This Act may be called the Iron and Steel Companies (Amalgamation and Takeover  
Laws) Repeal Act, 2000.**

**Repeal of Acts  
79 of 1952 and  
50 of 1972.**

**2. The Iron and Steel Companies Amalgamation Act, 1952 and the Indian Iron and  
Steel Company (Taking Over of Management) Act, 1972 are hereby repealed.**

**THE MOTOR VEHICLES (AMENDMENT)  
ACT, 2000**

**No. 27 OF 2000**

**[11th August, 2000.]**

**An Act further to amend the Motor Vehicles Act, 1988.**

**Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**59 of 1988.**

- 1. This Act may be called the Motor Vehicles (Amendment) Act, 2000.** Short title.
- 2. For section 52 of the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—**

**'52. (1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer:**

**Provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed:**

**Substitution of  
new section  
for section 52.**

**Alteration in  
motor vehicle.**

Provided further that the Central Government may prescribe specifications, conditions for approval, retrofitment and other related matters for such conversion kits:

Provided also that the Central Government may grant exemption for alteration of vehicles in a manner other than specified above, for any specific purpose.

(2) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notification, and permit any person owning not less than ten transport vehicles to alter any vehicle owned by him so as to replace the engine thereof with engine of the same make and type, without the approval of registering authority.

(3) Where any alteration has been made in motor vehicle without the approval of registering authority or by reason of replacement of its engine without such approval under sub-section (2), the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of registration may be entered therein.

(4) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

(5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner.

*Explanation.—For the purposes of this section, “alteration” means a change in the structure of a vehicle which results in a change in its basic feature.’.*

Amendment of  
section 58.

3. In section 58 of the principal Act, sub-section (4) shall be omitted.

Amendment of  
section 66.

4. In section 66 of the principal Act, in sub-section (3), clause (h) shall be omitted.

Insertion of  
new section  
217A.

5. After section 217 of the principal Act, the following section shall be inserted, namely:—

Renewal of  
permits, driving  
licences and  
registration  
granted under  
the Motor  
Vehicles Act,  
1939.

“217A. Notwithstanding the repeal by sub-section (1) of section 217 of the enactments referred to in that sub-section, any certificate of fitness or registration or licence or permit issued or granted under the said enactments may be renewed under this Act.”.

# THE MADHYA PRADESH REORGANISATION ACT, 2000

## ARRANGEMENT OF SECTIONS

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9. Representation in the House of the People.
10. Delimitation of Parliamentary and Assembly constituencies.
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12. Provisions as to Legislative Assemblies.
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17. Delimitation of constituencies.
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**THE SECOND SCHEDULE.**

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**THE FOURTH SCHEDULE.**

**THE FIFTH SCHEDULE.**

**THE SIXTH SCHEDULE.**

**THE SEVENTH SCHEDULE.**

**THE EIGHTH SCHEDULE.**

**THE MADHYA PRADESH REORGANISATION  
ACT, 2000**

**No. 28 OF 2000**

[25th August, 2000.]

**An Act to provide for the reorganisation of the existing State of Madhya Pradesh and for matters connected therewith.**

**Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**PART I**

**PRELIMINARY**

**1. This Act may be called the Madhya Pradesh Reorganisation Act, 2000.**

**Short title.**

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

**Definitions.**

\*

(a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

\* 1.11.2000 ; vide notification No. S.O. 827 (E) dt. 14.9.2000

- (b) "article" means an article of the Constitution;
- (c) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950;
- (d) "Election Commission" means the Election Commission appointed by the President under article 324;
- (e) "existing State of Madhya Pradesh" means the State of Madhya Pradesh as existing immediately before the appointed day;
- (f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Madhya Pradesh;
- (g) "notified order" means an order published in the Official Gazette;
- (h) "population ratio", in relation to the States of Madhya Pradesh and Chhattisgarh, means the ratio of 485.7:176.2;
- (i) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Madhya Pradesh means a person who immediately before the appointed day, is a member of that House;
- (j) "successor State", in relation to the existing State of Madhya Pradesh, means the State of Madhya Pradesh or Chhattisgarh;
- (k) "transferred territory" means the territory which on the appointed day is transferred from the existing State of Madhya Pradesh to the State of Chhattisgarh;
- (l) "treasury" includes a sub-treasury; and
- (m) any reference to a district, tehsil or other territorial division of the existing State of Madhya Pradesh shall be construed as a reference to the area comprised within that territorial division on the appointed day.

## PART II

### REORGANISATION OF THE STATE OF MADHYA PRADESH

**Formation of  
Chhattisgarh  
State.**

3. On and from the appointed day, there shall be formed a new State to be known as the State of Chhattisgarh comprising the following territories of the existing State of Madhya Pradesh, namely:—

Bastar, Bilaspur, Dantewada, Dhamtari, Durg, Janjgir-Champa, Jashpur, Kanker, Kawardha, Korba, Koriya, Mahasamund, Raigarh, Raipur, Rajnandgaon and Surguja districts,

and thereupon the said territories shall cease to form part of the existing State of Madhya Pradesh.

**State of  
Madhya  
Pradesh and  
territorial  
divisions  
thereof.**

4. On and from the appointed day, the State of Madhya Pradesh shall comprise the territories of the existing State of Madhya Pradesh other than those specified in section 3.

**Amendment of  
the First  
Schedule to  
the  
Constitution.**

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. THE STATES",—

(a) in the paragraph relating to the territories of the State of Madhya Pradesh, after the words, brackets and figures "the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959," the following shall be added, namely:—

"but excluding the territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000.";

(b) after entry 25, the following entry shall be inserted, namely:—

"26. Chhattisgarh: The territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000.".

6. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Madhya Pradesh or Chhattisgarh to alter, after the appointed day, the name, area or boundaries of any district or other territorial division in the State.

Saving powers of the State Government.

### PART III

#### REPRESENTATION IN THE LEGISLATURES

##### *The Council of States*

7. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

Amendment of the Fourth Schedule to the Constitution.

(a) entries 9 to 27 shall be renumbered as entries 10 to 28 respectively;

(b) in entry 8, for the figures "16", the figures "11" shall be substituted;

(c) after entry 8, the following entry shall be inserted, namely:—

"9. Chhattisgarh ..... 5.".

8. (1) On and from the appointed day, the sixteen sitting members of the Council of States representing the existing State of Madhya Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Madhya Pradesh and Chhattisgarh, as specified in the First Schedule to this Act.

Allocation of sitting members.

(2) The term of office of such sitting members shall remain unaltered.

##### *The House of the People*

43 of 1950.

9. On and from the appointed day, there shall be allocated 29 seats to the successor State of Madhya Pradesh, and 11 to the successor State of Chhattisgarh, in the House of the People, and the First Schedule to the Representation of the People Act, 1950 shall be deemed to be amended accordingly.

Representation in the House of the People.

10. On and from the appointed day, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended as directed in the Second Schedule to this Act.

Delimitation of Parliamentary and Assembly constituencies.

11. (1) Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of section 10, stands allotted, with or without alteration of boundaries, to the successor States of Madhya Pradesh or Chhattisgarh, shall be deemed to have been elected to the House of the People by that constituency as so allotted.

Provision as to sitting members.

(2) The term of office of such sitting members shall remain unaltered.

##### *The Legislative Assembly*

43 of 1950.

12. (1) The number of seats as on the appointed day in the Legislative Assemblies of the States of Madhya Pradesh and Chhattisgarh shall be two hundred and thirty and ninety respectively.

Provisions as to Legislative Assemblies.

(2) In the Second Schedule to the Representation of the People Act, 1950, under heading "I. States",—

(a) entries 5 to 25 shall be renumbered as entries 6 to 26 respectively;

(b) after entry 4, the following entry shall be inserted, namely:—

"1

5

5. Chhattisgarh ..... 90.";

(c) in entry 13, as so renumbered, for the figures "320", the figures "230" shall be substituted.

**Allocation of sitting members.**

13. (1) Every sitting member of the Legislative Assembly of the existing State of Madhya Pradesh elected to fill a seat in that Assembly from a constituency which on the appointed day by virtue of the provisions of section 10 stands allotted, with or without alteration of boundaries, to the State of Chhattisgarh shall, on and from that day, cease to be a member of the Legislative Assembly of Madhya Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Chhattisgarh from that constituency so allotted.

(2) All other sitting members of the Legislative Assembly of the existing State of Madhya Pradesh shall continue to be members of the Legislative Assembly of that State and any such sitting member representing a constituency the extent, or the name and extent of which are altered by virtue of the provisions of section 9 shall be deemed to have been elected to the Legislative Assembly of Madhya Pradesh by that constituency as so altered.

(3) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assemblies of Madhya Pradesh and Chhattisgarh shall be deemed to be duly constituted on the appointed day.

(4) The sitting member of the Legislative Assembly of the existing State of Madhya Pradesh nominated to that Assembly under article 333 to represent the Anglo-Indian community shall be deemed to have been nominated to represent the said community in the Legislative Assembly of Madhya Pradesh under that article.

**Duration of Legislative Assemblies.**

14. The period of five years referred to in clause (1) of article 172, shall, in the case of Legislative Assembly of the State of Madhya Pradesh and the State of Chhattisgarh be deemed to have commenced on the date on which it actually commenced in the case of Legislative Assembly of the existing State of Madhya Pradesh.

**Speakers and Deputy Speakers.**

15. (1) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Madhya Pradesh shall continue to be the Speaker and Deputy Speaker respectively of that Assembly on and from that day.

(2) As soon as may be after the appointed day, the Legislative Assembly of the successor State of Chhattisgarh shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of the Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

**Rules of procedure.**

16. The rules of procedure and conduct of business of the Legislative Assembly of Madhya Pradesh as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of the State of Chhattisgarh, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

*Delimitation of constituencies*

**Delimitation of constituencies.**

17. (1) For the purpose of giving effect to the provisions of section 12, the Election Commission shall determine in the manner hereinafter provided—

(a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States of Madhya Pradesh and Chhattisgarh, respectively having regard to the relevant provisions of the Constitution;

(b) the assembly constituencies into which each State referred to in clause (a) shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes; and

(c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each State referred to in clause (a) that may be necessary or expedient.

(2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:—

(a) all the constituencies shall be single-member constituencies;

(b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and conveniences to the public; and

(c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

(3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), associate with itself as associate members, five persons as the Central Government may, by order specify, being persons who are members of the Legislative Assembly of the State or of the House of the People representing the State:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (3).

(5) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified; and

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the concerned State.

(7) The delimitation of constituencies in the States of Madhya Pradesh and Chhattisgarh shall be determined on the basis of the published figures of the census taken in the year 1971.

18. (1) The Election Commission may, from time to time, by notification in the Official Gazette,—

(a) correct any printing mistakes in any order made under section 17 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the concerned Legislative Assembly.

Power of the  
Election  
Commission  
to maintain  
Delimitation  
Orders up-to-  
date.

*Scheduled Castes and Scheduled Tribes*

Amendment of  
the Scheduled  
Castes Order.

Amendment of  
the Scheduled  
Tribes Order.

High Court of  
Chhattisgarh.



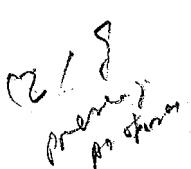
Judges of  
Chhattisgarh  
High Court.



Jurisdiction of  
Chhattisgarh  
High Court.



Special  
provision  
relating to Bar  
Council and  
advocates.



19. On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the Third Schedule.

20. On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Fourth Schedule.

**PART IV****HIGH COURT**

21. (1) As from the appointed day, there shall be a separate High Court for the State of Chhattisgarh (hereinafter referred to as "the High Court of Chhattisgarh") and the High Court of Madhya Pradesh shall become the High Court for the State of Madhya Pradesh (hereinafter referred to as the High Court of Madhya Pradesh).

(2) The principal seat of High Court of Chhattisgarh shall be at such place as the President may, by notified order, appoint.

(3) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Chhattisgarh may sit at such other place or places in the State of Chhattisgarh other than its principal seat as the Chief Justice may, with the approval of the Governor of Chhattisgarh, appoint.

22. (1) Such of the Judges of the High Court of Madhya Pradesh holding office immediately before the appointed day as may be determined by the President shall on that day cease to be Judges of the High Court of Madhya Pradesh and become Judges of the High Court of Chhattisgarh.

(2) The persons who by virtue of sub-section (1) become Judges of the High Court of Chhattisgarh shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the priority of their respective appointments as Judges of the High Court of Madhya Pradesh.

23. The High Court of Chhattisgarh shall have, in respect of any part of the territories included in the State of Chhattisgarh, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect to that part of the said territories by the High Court of Madhya Pradesh.

24. (1) On and from the appointed day, in the Advocates Act, 1961, in section 3, in sub-section (1), in clause (a), for the words "and Madhya Pradesh", the words "Madhya Pradesh and Chhattisgarh" shall be substituted.

25 of 1961.

(2) Any person who immediately before the appointed day is an advocate on the roll of the Bar Council of the existing State of Madhya Pradesh may give his option in writing, within one year from the appointed day to the Bar Council of such existing State, to transfer his name on the roll of the Bar Council of Chhattisgarh and notwithstanding anything contained in the Advocates Act, 1961 and the rules made thereunder, on such option so given his name shall be deemed to have been transferred on the roll of the Bar Council of Chhattisgarh with effect from the date of the option so given for the purposes of the said Act and the rules made thereunder.

25 of 1961.

(3) The persons other than the advocates who are entitled immediately before the appointed day, to practise in the High Court of Madhya Pradesh or any subordinate court thereof shall, on and after the appointed day, be recognised as such persons entitled also to practise in the High Court of Chhattisgarh or any subordinate court thereof, as the case may be.

(4) The right of audience in the High Court of Chhattisgarh shall be regulated in accordance with the like principles as immediately before the appointed day are in force with respect to the right of audience in the High Court of Madhya Pradesh.

**25.** Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Madhya Pradesh shall, with the necessary modifications, apply in relation to the High Court of Chhattisgarh, and accordingly, the High Court of Chhattisgarh shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court of Madhya Pradesh:

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court of Madhya Pradesh shall, until varied or revoked by rules or orders made by the High Court of Chhattisgarh, apply with the necessary modifications in relation to practice and procedure in the High Court of Chhattisgarh as if made by that Court.

**26.** The law in force immediately before the appointed day with respect to the custody of the seal of the High Court of Madhya Pradesh shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Chhattisgarh.

**27.** The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Madhya Pradesh shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Chhattisgarh.

**28.** The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judge and division courts of the High Court of Madhya Pradesh and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Chhattisgarh.

**29.** The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Madhya Pradesh and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Court of Chhattisgarh.

**30. (1)** Except as hereinafter provided, the High Court of Madhya Pradesh shall, as from the appointed day, have no jurisdiction in respect of the transferred territory.

(2) Such proceedings pending in the High Court of Madhya Pradesh immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Chhattisgarh shall, as soon as may be after such certification, be transferred to the High Court of Chhattisgarh.

(3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in section 23, but save as hereinafter provided, the High Court of Madhya Pradesh shall have, and the High Court of Chhattisgarh shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court of Madhya Pradesh before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court of Madhya Pradesh, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Chhattisgarh, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

**(4) Any order made by the High Court of Madhya Pradesh—**

(a) before the appointed day, in any proceedings transferred to the High Court of Chhattisgarh by virtue of sub-section (2); or

(b) in any proceedings with respect to which the High Court of Madhya Pradesh retains jurisdiction by virtue of sub-section (3),

Practice and  
procedure in  
Chhattisgarh  
High Court.

Custody of seal  
of  
Chhattisgarh  
High Court.

Form of writs  
and other  
processes.

Powers of  
Judges.

Procedure as to  
appeals to  
Supreme  
Court.

Transfer of  
proceedings  
from Madhya  
Pradesh High  
Court to  
Chhattisgarh  
High Court.

shall for all purposes have effect, not only as an order of the High Court of Madhya Pradesh, but also as an order made by the High Court of Chhattisgarh.

**Right to appear or to act in proceedings transferred to Chhattisgarh High Court.**

31. Any person, who, immediately before the appointed day, is an advocate entitled to practise or any other persons entitled to practise in the High Court of Madhya Pradesh and was authorised to appear in any proceedings transferred from that High Court to the High Court of Chhattisgarh under section 30, shall have the right to appear in the High Court of Chhattisgarh in relation to those proceedings.

**Interpretation.**

32. For the purposes of section 30—

(a) proceedings shall be deemed to be pending in a Court until that Court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a Court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that Court or Judge.

**Saving.**

33. Nothing in this Part shall affect the application to the High Court of Chhattisgarh of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

## PART V

### AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

**Authorisation of expenditure of Chhattisgarh State.**

34. The Governor of Madhya Pradesh may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Chhattisgarh as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Chhattisgarh:

Provided that the Governor of Chhattisgarh may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Chhattisgarh for any period not extending beyond the said period of six months.

**Reports relating to accounts of Madhya Pradesh State.**

35. (1) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the State of Madhya Pradesh in respect of any period prior to the appointed day shall be submitted to the Governor of each of the successor States of Madhya Pradesh and Chhattisgarh who shall cause them to be laid before the Legislature of that State.

(2) The President may by order—

(a) declare any expenditure incurred out of the Consolidated Fund of Madhya Pradesh on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and

(b) provide for any action to be taken on any matter arising out of the said reports.

**Distribution of revenue.**

36. The President shall, by order, determine the share of the States of Madhya Pradesh and Chhattisgarh in the total amount payable to the existing State of Madhya Pradesh on the recommendation of the Finance Commission constituted under article 280 of the Constitution, in such manner as he thinks fit.

## PART VI

### APPORTIONMENT OF ASSETS AND LIABILITIES

**37. (1)** The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the State of Madhya Pradesh immediately before the appointed day.

**(2)** The successor State shall be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States shall be liable to bear the financial liabilities arising out of the decisions taken by the existing State of Madhya Pradesh.

**(3)** The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities amongst the successor States.

**(4)** Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by the Central Government on the advice of the Comptroller and Auditor-General of India.

**38. (1)** Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Madhya Pradesh shall,—

**(a)** if within the transferred territory, pass to the State of Chhattisgarh; or

**(b)** in any other case, remain the property of the State of Madhya Pradesh:

Provided that any land, stores, articles or other goods may be distributed otherwise than in accordance with the situation of such land, stores, articles or goods by mutual agreement between the successor States, failing which the Central Government may, on the request of any of the Governments of the successor States and after consulting both the Governments of the successor States, issue directions for the just and equitable distribution of such land, stores, articles or goods between the successor States and the land, stores, articles or goods shall accordingly pass to the successor States:

Provided further that in case of the distribution, of any land, stores, articles and goods or class of goods under this sub-section located outside the existing State of Madhya Pradesh, such distribution shall be made through mutual agreement arrived at between the Governments of the successor States for that purpose, failing which the Central Government may, on request by any of the Governments of the successor States, after consulting both the Governments of the successor States, issue such direction as it may deem fit for the distribution of such land, stores, articles and goods or class of goods, as the case may be, under this sub-section.

**(2)** Stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops, undertakings or works are located.

**(3)** Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Madhya Pradesh shall be divided between the successor States in accordance with the mutual agreement arrived at between the Government of the successor States for that purpose, failing which the Central Government may, on request by any of the Governments of the successor States, after consulting both the Governments of the successor States, issue such direction as it may deem fit for the distribution of such stores or any part of such stores, as the case may be.

**(4)** Any other unissued stores of any class in the existing State of Madhya Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years prior to the appointed day, for the territories of the existing State of Madhya Pradesh included respectively in each of the successor States:

Provided that where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed rupees ten thousand, that class of stores shall be divided between the successor States according to the population ratio.

(5) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

**Treasury and bank balances.**

39. The total of the cash balances in all treasuries of the State of Madhya Pradesh and the credit balances of the State with Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the States of Madhya Pradesh and Chhattisgarh according to the population ratio:

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the two States in the books of the Reserve Bank of India on the appointed day:

Provided further that if the State of Chhattisgarh has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order, direct.

**Arrears of taxes.**

40. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the successor State in which the property is situated, and the right to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

**Right to recover loans and advances.**

41. (1) The right of the existing State of Madhya Pradesh to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within that State shall belong to the successor State in which that area is included on that day.

(2) The right of the existing State of Madhya Pradesh to recover any loans or advances made before the appointed day to any person or institution outside that State shall belong to the State of Madhya Pradesh:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Madhya Pradesh and Chhattisgarh according to the population ratio.

**Investments and credits in certain funds.**

42. (1) The securities held in respect of the investments made from Cash Balances Investment Account or from any Fund in the Public Account of the existing State of Madhya Pradesh as specified in the Fifth Schedule to this Act shall be apportioned in the ratio of population of the successor States:

Provided that the securities held in investments made from the Calamity Relief Fund of the existing State of Madhya Pradesh shall be divided in the ratio of the area of the territories occupied by the successor States:

Provided further that the balance in the Reserve Funds in the Public Account of Madhya Pradesh created wholly out of appropriations from the Consolidated Fund of the existing State of Madhya Pradesh, to the extent the balances have not been invested outside Government account, shall not be carried forward to similar Reserve Funds in the Public Account of, successor States:

Provided also that the balances in any other Reserve Funds, excluding those specified in sub-section (2), shall be allocated between the States of Madhya Pradesh and Chhattisgarh in the ratio of population of those States.

(2) The investments of the existing State of Madhya Pradesh immediately before the appointed day in any special fund the objects of which are confined to a local area shall belong to the State in which that area is included on the appointed day.

(3) The investments of the existing State of Madhya Pradesh immediately before the appointed day in any private, commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the cash balance investment account, shall pass to the State in which the principal seat of business of the undertaking is located.

(4) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Madhya Pradesh or any part thereof has, by virtue of the provisions of Part II of this Act, become an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the existing State of Madhya Pradesh made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Madhya Pradesh and Chhattisgarh in the same proportion in which the assets of the body corporate are divided under the provisions of this Part.

43. (1) The assets and liabilities relating to any undertaking of the existing State of Madhya Pradesh whether directly owned or through a body corporate constituted or incorporated or registered under any Central, State or Provincial Act, shall,—

(a) if exclusively located in a successor State, pass to the successor State, and where a depreciation reserve is maintained by the existing State of Madhya Pradesh for such undertaking, the securities held in respect of investment made from that fund shall also pass to such successor State;

(b) where any such undertaking or part thereof is located, in more than one successor State, the assets, liabilities and securities shall be divided in such manner as may be agreed upon between the successor States within a period of two years from the appointed day or in failure of such agreement as the Central Government may by order direct.

(2) An agreement entered into between the successor States, or order made by the Central Government under sub-section (1) may provide for the dissolution of the undertaking or transfer or re-employment of any employee of the undertaking to or by the successor States, subject to the provisions of section 62.

(3) An agreement entered into between the successor States, or order made by the Central Government under sub-section (1) may also provide for the transfer of the assets and liabilities which would otherwise have passed to a successor State to any other undertaking of that successor State; and any employee of the undertaking referred to in sub-section (1), who would otherwise have been transferred to or re-employed by a successor State, may be transferred to or be re-employed by such undertaking instead of that successor State.

44. (1) All liabilities on account of Public Debt and Public Account of the existing State of Madhya Pradesh outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is provided under the provisions of this Act.

Public Debt.

(2) The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor-General of India:

Provided that till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Madhya Pradesh shall continue to be the liabilities of the successor State of Madhya Pradesh.

(3) The liability on account of loans raised from any source and re-lent by the existing State of Madhya Pradesh to such entities as may be specified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as specified in sub-section (4).

(4) The Public Debt of the existing State of Madhya Pradesh attributable to loan taken from any source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or

(b) if re-lent to the Madhya Pradesh State Electricity Board, the Madhya Pradesh State Road Transport Corporation, or the Madhya Pradesh Housing Board or any

Assets and  
liabilities of  
State  
undertaking.

other institution which becomes an inter-State institution on the appointed day, be divided between the States of Madhya Pradesh and Chhattisgarh in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII of this Act.

(5) Where a sinking fund or a depreciation fund is maintained by the existing State of Madhya Pradesh for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the successor States of Madhya Pradesh and Chhattisgarh in the same proportion in which the total public debt is divided between the two States under this section.

(6) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause (2) of section 2 of the Public Debt Act, 1944.

18 of 1944.

## Floating loans.

45. All liabilities of the existing State of Madhya Pradesh of any floating loan to provide short term finance to any local body, body corporate or other institution shall be determined by mutual agreement between the successor States, failing which the Central Government shall determine such liability between the successor States in consultation with such States.

## Refund of taxes collected in excess.

46. The liability of the existing State of Madhya Pradesh to refund any tax or duty on property, including land revenue, collected in excess shall be the liability of the successor State in whose territories the property is situated, and the liability of the existing State of Madhya Pradesh to refund any other tax or duty collected in excess shall be the liability of the successor State in whose territories the place of assessment of that tax or duty is included.

## Deposits, etc.

47. (1) The liability of the existing State of Madhya Pradesh in respect of any civil deposit or local fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.

(2) The liability of the existing State of Madhya Pradesh in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment, under the terms thereof, are confined.

## Provident fund.

48. The liability of the existing State of Madhya Pradesh in respect of the provident fund account of a Government servant in service on the appointed day shall, as from that day, be the liability of the State to which that Government servant is permanently allotted.

## Pensions.

49. The liability of the existing State of Madhya Pradesh in respect of pensions shall pass to, or be apportioned between the successor States of Madhya Pradesh and Chhattisgarh in accordance with the provisions contained in the Sixth Schedule to this Act.

## Contracts.

50. (1) Where, before the appointed day, the existing State of Madhya Pradesh has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power—

(a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of either of the successor States of Madhya Pradesh and Chhattisgarh, then, of that State; or

(b) in any other case, of the State of Madhya Pradesh,

all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Madhya Pradesh, be rights or liabilities of the State of Chhattisgarh or the State of Madhya Pradesh, as the case may be:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor States of Madhya Pradesh and Chhattisgarh or in default of such agreement, as the Central Government may, by order, direct.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in or in connection with any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

**51.** Where, immediately before the appointed day, the existing State of Madhya Pradesh is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

(a) if the cause of action arose wholly within the territories which, as from that day, are the territories of either of the successor States of Madhya Pradesh or Chhattisgarh, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Madhya Pradesh, but subject to such financial adjustment as may be agreed upon between the States of Madhya Pradesh and Chhattisgarh or, in default of such agreement, as the Central Government may, by order, direct.

**52.** Where, immediately before the appointed day, the existing State of Madhya Pradesh is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the existing State of Madhya Pradesh shall—

(a) if the area of operations of such society or persons is limited to the territories which, as from that day, are the territories of either of the States of Madhya Pradesh or Chhattisgarh, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Madhya Pradesh, subject to such financial adjustment as may be agreed upon between the States of Madhya Pradesh and Chhattisgarh or, in default of such agreements, as the Central Government may, by order, direct.

**53.** If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

**54.** The benefit or burden of any asset or liability of the existing State of Madhya Pradesh not dealt with in the foregoing provisions of this Part shall pass to the State of Madhya Pradesh in the first instance, subject to such financial adjustment as may be agreed upon between the States of Madhya Pradesh and Chhattisgarh or, in default of such agreement, as the Central Government may, by order, direct.

**55.** Where the successor States of Madhya Pradesh and Chhattisgarh agree that the asset, liability or benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, then, notwithstanding anything contained therein, the assets, liability or benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

**56.** Where, by virtue of any of the provisions of this Part, any of the successor States of Madhya Pradesh and Chhattisgarh becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made within a period of three years from the appointed day by either of the States, that it is just and equitable that property or those benefits should be transferred to, or shared with, the other successor State, or that a contribution towards that liability should be made by the

Liability in respect of actionable wrong.

Liability as guarantor.

Items in suspense.

Residuary provision.

Apportionment of assets or liabilities by agreement.

Power of Central Government to order allocation or adjustment in certain cases.

other successor State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order determine.

Certain expenditure to be charged on Consolidated Fund.

57. All sums payable either by the State of Madhya Pradesh or by the State of Chhattisgarh to the other States or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

## PART VII

### PROVISIONS AS TO CERTAIN CORPORATIONS

Provisions as to Madhya Pradesh State Electricity Board, State Road Transport Corporation and State Warehousing Corporation, etc.

58. (1) The following bodies corporate constituted for the existing State of Madhya Pradesh, namely:—

- (a) the State Electricity Board constituted under the Electricity Supply Act, 1948;
- (b) the State Road Transport Corporation established under the Road Transport Corporations Act, 1950; and
- (c) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962,

54 of 1948.

64 of 1950.

58 of 1962.

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section and arrangements for the functioning of such body corporates as may be mutually agreed upon between the successor States failing which to such directions as may, from time to time, be issued by the Central Government.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.

(3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on such date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States of Madhya Pradesh and Chhattisgarh in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order, determine:

Provided that any liabilities of the said Board relating to the unpaid dues of the coal supplied to the Board by any public sector coal company shall be provisionally apportioned between the successor organisations constituted respectively in the successor States of the existing State of Madhya Pradesh or after the date appointed for the dissolution of the Board under this sub-section in such manner as may be agreed upon between the Governments of the successor States within one month of such dissolution or if no agreement is reached, in such manner as the Central Government may, by order, determine subject to reconciliation and finalisation of the liabilities which shall be completed within three months from the date of such dissolution by the mutual agreement between the successor States or failing such agreement by the direction of the Central Government:

Provided further that an interest at the rate of two per cent. higher than the Cash Credit interest shall be paid on outstanding unpaid dues of the coal supplied to the Board by the public sector coal company till the liquidation of such dues by the concerned successor organisations constituted in the successor States on or after the date appointed for the dissolution of the Board under this sub-section.

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Madhya Pradesh or, as the case may be, the Government of the State of Chhattisgarh from constituting, at any time on or after the appointed day, a State Electricity Board or a State Road Transport Corporation or a State Warehousing Corporation for the State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (1),—

(a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State, and

(b) upon the dissolution of existing Board or Corporation,—

(i) any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State;

(ii) any employee who would otherwise have been transferred to or re-employed by that State under sub-section (3), read with clause (i) of sub-section (5), shall be transferred to or re-employed by the new Board or the new Corporation instead of to or by that State.

(5) An agreement entered into between the successor States under sub-section (3) and an order made by the Central Government under that sub-section or under clause (a) of sub-section (4) may provide for the transfer or re-employment of any employee of the Board or the Corporation referred to in sub-section (1),—

(i) to or by the successor States, in the case of an agreement under sub-section (4) or an order made under that sub-section;

(ii) to or by the new Board or the new Corporation constituted under sub-section (4), in the case of an order made under clause (a) of that sub-section,

and, subject to the provisions of section 64, also for the terms and conditions of service applicable to such employees after such transfer or re-employment.

63 of 1951.

**59.** (1) The Madhya Pradesh State Financial Corporation established under the State Financial Corporation Act, 1951 shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may from time to time, be issued by the Central Government after consultation with the Governments of the successor States.

Provisions as  
to Madhya  
Pradesh State  
Financial  
Corporation.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Board of Directors of the Corporation may, with the previous approval of the Central Government and shall, if so required by the Central Government, convene at any time after the appointed day a meeting for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new Corporations, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

(4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall,

notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(5) If the scheme is not so approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court of Madhya Pradesh as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(6) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Madhya Pradesh and Chhattisgarh from constituting, at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporation Act, 1951.

63 of 1951.

Provisions as  
to certain  
companies.

60. (1) Notwithstanding anything contained in the foregoing provisions of this Part, each of the companies specified in the Seventh Schedule to this Act shall, on and from the appointed day and until otherwise provided for in any law, or in any agreement among the successor States, or in any direction issued by the Central Government, continue to function in the areas in which it was functioning immediately before that day; and the Central Government may, after consultation with the Governments of the successor States, from time to time issue such directions in relation to such functioning as it may deem fit, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law.

1 of 1956.

(2) Any directions issued under sub-section (1), in respect of a company referred to in that sub-section, may include directions—

(a) regarding the division of the interests and shares of existing State of Madhya Pradesh in the company among the successor States;

(b) requiring the reconstitution of the Board of Directors of the company so as to give adequate representation to both the successor States.

Functioning of  
organisation,  
registered  
society or trust  
incorporated  
on behest of  
State  
Government.

61. (1) Notwithstanding anything contained in the foregoing provisions of this Part or any other law for the time being in force, any organisation, registered society or trust, incorporated at the behest of the State Government, shall, on and from the appointed day, and until otherwise provided for in any law for the time being in force, or in any agreement between the successor States, or in any direction issued by the Central Government in consultation with the successor States, continue to function in the areas in which it was functioning immediately before that day, and the Central Government may, after consulting the Governments of the successor States, issue directions in relation to such functioning.

(2) Any directions issued under sub-section (1) may include directions regarding the—

(i) reconstitution of the Board of Directors of the organisation, society or trust by whatever name it may be called; or

(ii) appointment of the Chief Executive by whatever name it may be called; or

(iii) regulations or bye-laws, by whatever name they may be called; or

(iv) assessment and apportionment of financial support, if any, provided by the existing State of Madhya Pradesh for meeting fixed charges.

General  
provisions as  
to statutory  
corporations.

62. (1) Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Madhya Pradesh or any part thereof has, by virtue of the provisions of Part II of this Act, become an inter-State body corporate, then, the body corporate shall, on and from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, after consultation with the Governments of the successor States, until other provision is made by law in respect of the said body corporate.

(2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

**59 of 1988.** **63. (1)** Notwithstanding anything contained in section 88 of the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Madhya Pradesh or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Chhattisgarh or any Regional Transport Authority therein for the purpose of validating it for use in such area:

Temporary provisions as to continuance of certain existing road transport permits.

Provided that the Central Government may, after consultation with the successor State Government or Governments concerned add to, amend or vary the conditions attached to the permit by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor States under any such permit, if such vehicle was, immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may, after consultation with the State Government or Governments concerned, authorise the levy of any such toll, entrance fees or other charges, as the case may be.

**14 of 1947.**

**64.** Where on account of the reorganisation of the existing State of Madhya Pradesh under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any other co-operative society or undertaking, then notwithstanding anything contained in section 25F, section 25FF or section 25FFF of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section:

Special provisions relating to retrenchment compensation in certain cases.

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman is transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F, section 25FF or section 25FFF of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

**14 of 1947.**

**65.** Where the assets, rights and liabilities of any body corporate carrying on any business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961, shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be

**43 of 1961.**

Special provisions as to income-tax.

dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

Continuance of facilities in certain State institutions.

**66. (1)** The Government of State of Madhya Pradesh or Chhattisgarh, as the case may be, shall, in respect of the institutions specified in the Eighth Schedule to this Act, located in that State, continue to provide facilities to the people of the other State which shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments within a period of one year from the appointed day or if no agreement is reached within the said period of one year, then, as may be fixed by order of the Central Government.

(2) The Central Government may, at any time within a period of one year from the appointed day, by notification in the Official Gazette, specify in the Eighth Schedule any other institution existing on the appointed day in the States of Madhya Pradesh and Chhattisgarh and on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said institution therein.

## PART VIII

### PROVISIONS AS TO SERVICES

Provisions relating to All-India Services.

**67. (1)** In this section, the expression "State cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954;

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) In place of the cadres of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Madhya Pradesh, there shall, on and from the appointed day, be two separate cadres, one for the State of Madhya Pradesh and the other for the State of Chhattisgarh in respect of each of these services.

(3) The initial strength and composition of the State cadres referred to in sub-section (2) shall be such as the Central Government may, by order, determine before the appointed day.

(4) The members of each of the said service borne on the Madhya Pradesh cadre thereof immediately before the appointed day shall be allocated to the State cadres of the same service constituted under sub-section (2) in such manner and with effect from such date or dates as the Central Government may, by order, specify.

(5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Service Act, 1951, or the rules made thereunder.

61 of 1951.

Provisions relating to services in Madhya Pradesh and Chhattisgarh.

**68. (1)** Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Madhya Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Madhya Pradesh unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Chhattisgarh:

Provided that no direction shall be issued under this section after the expiry of a period of one year from the appointed day.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

**69. (1)** Nothing in this section or section 68 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Madhya Pradesh or to the State of Chhattisgarh under section 68 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person—

(a) if he is deemed to have been allocated to any State under section 68, shall be deemed to have been rendered in connection with the affairs of that State;

(b) if he is deemed to have been allocated to the Union in connection with the administration of the Chhattisgarh shall be deemed to have been rendered in connection with the affairs of the Union,

for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 68, shall not apply in relation to members of any All-India Service.

**70. (1)** Every person who, immediately before the appointed day is holding or discharging duties of any post or office in connection with the affairs of the existing State of Madhya Pradesh in any area which on that day falls within any of the successor States shall continue to hold the same post or office in that successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor State:

Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

**71.** The Central Government may, by order establish one or more Advisory Committees for the purpose of assisting it in regard to—

(a) the discharge of any of its functions under this Part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

**72.** The Central Government may, give such directions to the State Government of Madhya Pradesh and the State Government of Chhattisgarh as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Governments shall comply with such directions.

**73. (1)** The Public Service Commission for the existing State of Madhya Pradesh shall, on and from the appointed day, be the Public Service Commission for the State of Madhya Pradesh.

(2) The persons holding office immediately before the appointed day as Chairman or other member of the Public Service Commission for the existing State of Madhya Pradesh shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the State of Madhya Pradesh.

(3) Every person who becomes Chairman or other member of the Public Service Commission for the State of Madhya Pradesh on the appointed day under sub-section (2), shall—

Provisions relating to other services.

Provisions as to continuance of officers in same post.

Advisory Committees.

Power of Central Government to give directions.

Provisions as to State Public Service Commission.

(a) be entitled to receive from the Government of the State of Madhya Pradesh conditions of service not less favourable than those to which he was entitled under the provisions applicable to him;

(b) subject to the proviso to clause (2) of article 316, hold office or continue to hold office until the expiration of his term of office as determined under the provisions applicable to him immediately before the appointed day.

(4) The report of the Madhya Pradesh Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of the States of Madhya Pradesh and Chhattisgarh, and the Governor of the State of Madhya Pradesh shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Madhya Pradesh and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Chhattisgarh.

**Jurisdiction of the Commissions, Authorities and Tribunals.**

74. (1) Notwithstanding anything contained in any law for the time being in force, every Commission, Authority, Tribunal, University, Board or any other body constituted under a Central Act, State Act or Provincial Act and having jurisdiction over the existing State of Madhya Pradesh shall on and from the appointed day continue to function in the successor State of Madhya Pradesh and also exercise jurisdiction as existed before the appointed day over the State of Chhattisgarh for a maximum period of two years from the appointed day or till such period as is decided by mutual agreement between the successor States—

- (i) to continue such body as a joint body for the successor States; or
- (ii) to abolish it, on the expiry of that period, for either of the successor States; or
- (iii) to constitute a separate commission, Authority, Tribunal, University, Board or any other body, as the case may be, for the State of Chhattisgarh,

whichever is earlier.

(2) No suit or other legal proceeding shall be instituted, in case such body is abolished under clause (ii) of sub-section (1), by any employee of such body against the termination of his appointment or for the enforcement of any service conditions or for securing absorption in alternative public employment against the Central Government or any of the successor States.

(3) Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court or Tribunal or contract or agreement, any Chairman or member of any body abolished under clause (ii) of sub-section (1) shall not be entitled to any compensation for the unexpired period of his tenure.

(4) Notwithstanding anything contained in this section or any law for the time being in force, the Central Government shall, in accordance with any mutual agreement between the successor States or if there is no such agreement, after consultation with the Governments of the successor States, issue directions for the resolution of any matter relating to any body referred to in sub-section (1) and falling within the jurisdiction of any of the successor States within any period referred to in sub-section (1).

## PART IX

### MANAGEMENT AND DEVELOPMENT OF POWER AND WATER RESOURCES

**Management of power and water supply in certain cases.**

75. (1) Where it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be, modified to the disadvantage of that area by reason of the formation of successor States, the Central Government may, after consultation with the successor States, give such directions to the State Government or other authority responsible for the maintenance, so far as practicable, of such arrangement before the appointed day.

(2) The Central Government shall within a period of three months from the appointed day, by order, also determine the share of the successor States in the entitlement of the existing State of Madhya Pradesh to power produced by the Central Government undertakings having due regard to the likely disadvantage which might have been occasioned to any successor State as a result of modified arrangements for generation and supply of electric power.

**76. (1)** The Central Government may, as and when it considers necessary, constitute an inter-State River Water Board, after consultation with the successor States, for the planning and development of inter-State rivers and river valleys.

(2) The Inter-State River Board constituted under sub-section (1) may be entrusted with the following functions, namely:—

(a) to examine the requirement of funds for various projects according to the programmes laid down for such projects and to advise regarding the apportionment of the expenditure to the State participating to implement such programmes keeping in view the agreement on the sharing of costs;

(b) to decide the sharing and withdrawal of water from the reservoirs for irrigation, power and other purposes with a view to securing better use of available water;

(c) to determine the programmes of re-settlement of displaced persons as a result of the projects; and

(d) to approve and supervise the planning, survey and investigation, preparation of project reports and construction of joint inter-State projects and their subsequent operation and maintenance.

Inter-State  
River Water  
Board.

## PART X

### LEGAL AND MISCELLANEOUS PROVISIONS

**77.** On and from the appointed day, in section 15 of the 'States Reorganisation Act, 1956, in clause (b), for the words "Uttar Pradesh and Madhya Pradesh", the words "Uttar Pradesh, Madhya Pradesh and Chhattisgarh" shall be substituted.

Amendment of  
Act 37 of  
1956.

**78.** The provisions of Part II of this Act shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Madhya Pradesh shall, until otherwise provided by a competent Legislature or other competent authority be constituted as meaning the territories within the existing State of Madhya Pradesh before the appointed day.

Territorial  
extent of laws.

**79.** For the purpose of facilitating the application in relation to the State of Madhya Pradesh or Chhattisgarh of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.

Power to adapt  
laws.

*Explanation.*—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its application to a State, the State Government.

**80.** Notwithstanding that no provision or insufficient provision has been made under section 79 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Madhya Pradesh or Chhattisgarh, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to  
construe laws.

Power to name authorities, etc., for exercising statutory functions.

81. The Government of the State of Chhattisgarh, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

82. Where immediately before the appointed day, the existing State of Madhya Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Madhya Pradesh and Chhattisgarh under this Act, the State of Madhya Pradesh or Chhattisgarh which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Madhya Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of pending proceedings.

83. (1) Every proceeding pending immediately before the appointed day before a court (including High Court), tribunal, authority or officer in any area which on that day falls within the State of Madhya Pradesh shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of Chhattisgarh State, stand transferred to the corresponding court, tribunal, authority or officer of the State of Chhattisgarh.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the High Court of Madhya Pradesh and the decision of that High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding court, tribunal, authority or officer" in the State of Chhattisgarh means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in the State of Chhattisgarh, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Madhya Pradesh to be the corresponding court, tribunal, authority or officer.

Right of pleaders to practise in certain cases.

84. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Madhya Pradesh shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Chhattisgarh.

Effect of provisions of the Act inconsistent with other laws.

85. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to remove difficulties.

86. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

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

(2) Every order made under this section shall be laid, before each House of Parliament.

## THE FIRST SCHEDULE

(See section 8)

(1) Of the five sitting members whose term of office will expire on the 9th day of April, 2002, namely Shri Lakkhiram Agrawal, Shri Surendra Kumar Singh, Shri Sikandar Bakht, Shri Suresh Pachouri and Shri Abdul Gayur Qureshi; Shri Lakkhiram Agrawal and Shri Surendra Kumar Singh shall be deemed to have been elected to fill two of the seats allotted to the State of Chhattisgarh and other three sitting members shall be deemed to have been elected to fill three of the seats allotted to the State of Madhya Pradesh.

(2) Of the five sitting members whose term of office will expire on the 30th day of June, 2004, namely Shri O. Rajagopal, Shri Dilip Singh Judev, Shri Jhumuklal Bhendia, Shri Balkavi Bairagi and Miss Mabel Rebello; Shri Dilip Singh Judev and Shri Jhumuklal Bhendia both shall be deemed to have been elected to fill two of the seats allotted to the State of Chhattisgarh and other three sitting members shall be deemed to have been elected to fill three of the seats allotted to the State of Madhya Pradesh.

(3) Of the six members whose term of office will expire on the 2nd day of April, 2006, namely, Shri Arjun Singh, Shri Kailash Joshi, Shri Bhagatram Manhar, Shri Hansraj Bhardwaj, Shri P.K. Maheshwari and Shri Vikram Verma, Shri Bhagatram Manhar, shall be deemed to have been elected to fill the one of the seats allotted to the State of Chhattisgarh and other five members shall be deemed to have been elected to fill the five seats allotted to the State of Madhya Pradesh.

## THE SECOND SCHEDULE

(See section 10)

### 1. AMENDMENTS TO THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1976

In the Delimitation of Parliamentary and Assembly Constituencies Order, 1976,—

1. in Schedule XII,—

(i) In PART A—Parliamentary Constituencies—

(a) serial numbers 12 to 22 (both inclusive) and entries relating thereto shall be omitted;

(b) in serial number 10, the following figures, words, brackets and letters shall be omitted, namely:—

“87-Manendragarh (ST)” and “88—Baikunthpur”.

(ii) In PART B—Assembly Constituencies, serial numbers 87 to 176 (both inclusive) and entries relating thereto shall be omitted.

2. after Schedule XII, the following Schedule shall be inserted, namely:—

### “SCHEDULE XIIA CHHATTISGARH

#### PART A.—PARLIAMENTARY CONSTITUENCIES

Serial No.	Name and extent of constituency
(1)	(2)
1.	<b>Surguja (ST)</b> —2. Baikunthpur, 3. Premnagar (ST), 4. Surajpur (ST), 5. Pal (ST), 6. Samri (ST), 7. Lundra (ST), 8. Pilkha (ST), 9. Ambikapur (ST) and 10. Sitapur (ST).
2.	<b>Raigarh (ST)</b> —11. Bagicha (ST), 12. Jashpur (ST), 13. Tapkara (ST), 14. Pathalgaon (ST), 15. Dharamjaigarh (ST), 16. Lailunga (ST), 17. Raigarh and 18. Kharsia.
3.	<b>Janjgir</b> —21. Rampur (ST), 22. Katghora, 23. Tanakhar (ST), 32. Mastuiri (SC), 33. Sipat, 34. Akaltara, 36. Champa and 37. Sakti.
4.	<b>Bilaspur (SC)</b> —1. Manendragarh (ST), 24. Marwahi (ST), 25. Kota, 26. Lormi, 27. Mungeli (SC), 28. Jarhagaon (SC), 29. Takhatpur, 30. Bilaspur and 31. Bilha.
5.	<b>Sarangarh (SC)</b> —19. Saria, 20. Sarangarh (SC), 35. Pamgarh, 38. Malkharoda (SC), 39. Chandrapur, 48. Pallari (SC), 49. Kasdol and 50. Bhatgaon (SC).
6.	<b>Raipur</b> —40—Raipur Town, 41. Raipur Rural, 42. Abhanpur, 43. Mandirhasod, 44. Arang (SC), 45. Dharsiwa, 46. Bhatapara and 47. Baloda Bazar.
7.	<b>Mahasamund</b> —53. Saraiptali, 54. Basna, 55. Khallari, 56. Mahasamund, 51. Rajim, 52. Bindranawagarh (ST), 58. Kurud and 59. Dhamtari.
8.	<b>Kanker (ST)</b> —57—Sihawa (ST), 60. Bhanupratappur (ST), 61. Kanker (ST), 63. Keskala (ST), 62. Narayanpur (ST), 79. Gunderdehi, 81. Balod and 82. Dondi Lohara (ST).
9.	<b>Bastar (ST)</b> —64-Kondagaon (ST), 65. Bhanpuri (ST), 66. Jagdalpur (ST), 67. Keslur (ST), 68. Chitrakote (ST), 69. Dentewara (ST), 70. Konta (ST) and 71. Bijapur (ST).

Serial No.	Name and extent of constituency
(1)	(2)
10.	<b>Durg</b> —72. Maro (SC), 73. Bemetara, 74. Saja, 75. Dhamdha, 76. Durg, 77. Bhilai, 78. Patan and 80. Khertha.
11.	<b>Rajnandgaon</b> —83. Chowki (ST), 84. Khujji, 85. Dongargaon, 86. Rajnandgaon, 87. Dongargarh (SC), 88. Khaigarh, 89. Birendranagar and 90. Kawardha.

**PART B.—ASSEMBLY CONSTITUENCIES**

**KORIA DISTRICT**

1. **Manendragarh (ST)**—Bharatpur tahsil and Manendragarh tahsil (excluding P.C. 15 in Khadgawan RIC) and the forest villages in the area.
2. **Baikunthpur**—Baikunthpur tahsil and the forest villages in the area and P.C. 15 in Khadgawan RIC in Manendragarh tahsil.

**SURGUJA DISTRICT**

3. **Premnagar (ST)**—Premnagar RIC and Ramanujnagar RIC (excluding PCs. 73 to 80) in Surajpur tahsil and Udaipur RIC and PCs. 55, 57, 58 and 65 in Lakhapur RIC in Ambikapur tahsil and the forest villages in the area.
4. **Surajpur (ST)**—Surajpur and Bhaiyathan RICs and PCs. 73 to 80 in Ramanujnagar RIC and Chandramedha RIC (excluding PCs. 17 to 26) in Surajpur tahsil.
5. **Pal (ST)**—Basantpur, Ramchandrapur and Chailgali RICs and Ramanujganj Town and P.Cs. 32 to 34A and 34B in Balrampur RIC in Pal tahsil.
6. **Samri (ST)**—Samri tahsil and the forest villages in the area, and Balrampur RIC (excluding Ramanujganj Town and PCs. 32 to 34A and 34B) in Pal tahsil.
7. **Lundra (ST)**—Lundra and Raipur RICs in Ambikapur tahsil and the forest villages in the area and P.Cs. 39 to 42 in Pratappur RIC in Surajpur tahsil.
8. **Pilkha (ST)**—Pilkha RIC, Pratappur (excluding P.Cs. 39 to 42), and P.Cs. 17 to 26 in Chandramedha RIC in Surajpur tahsil and the forest villages in the area.
9. **Ambikapur (ST)**—Ambikapur-I and Ambikapur-II RICs, and Lakhapur RIC (excluding P.Cs. 55, 57, 58 and 65) in Ambikapur tahsil and the forest villages in the area.
10. **Sitapur (ST)**—Sitapur and Batauli RICs in Ambikapur tahsil.

**JASHPUR DISTRICT**

11. **Bagicha (ST)**—Bagicha and Sanna RICs in Jashpur tahsil and the forest villages in the area.
12. **Jashpur (ST)**—Jashpur and Kastura RICs and P.Cs. 78 to 82 and 98 in Kunkuri RIC in Jashpur tahsil and the forest villages in the area.
13. **Tapkara (ST)**—Tapkara RIC and Kunkuri RIC (excluding P.Cs. 78 to 82 and 98) in Jashpur tahsil and the forest villages in the area.
14. **Pathalgaon (ST)**—Pathalgaon RIC and Kapu RIC (excluding P.Cs. 1 to 6 and 36) in Udaipur (Dharamjaigarh) tahsil.

Serial No.	Name and extent of constituency
(1)	(2)

### RAIGARH DISTRICT

15. **Dharamjaigarh (ST)**— Dharamjaigarh RIC and P.Cs. 1 to 6 and 36 in Kapu RIC in Udaipur (Dharamjaigarh) tahsil and Gharghoda RIC in Gharghoda tahsil and the forest villages in the area.
16. **Lailunga (ST)**— Lailunga and Tamnar RICs in Gharghoda tahsil and the forest villages in the area.
17. **Raigarh**— Raigarh-I and Raigarh-II RICs and P.Cs. 44 to 52 in Pussour RIC in Raigarh tahsil.
18. **Kharsia**— Kharsia and Bhupdeopur RICs in Raigarh tahsil.
19. **Saria**— Pussour RIC (excluding P.Cs. 44 to 52) in Raigarh tahsil and Saria and Baramkela RICs in Sarangarh tahsil and the forest villages in the area.
20. **Sarangarh (ST)**— Sarangarh and Hardi RICs in Sarangarh tahsil and the forest villages in the area.

### KORBA DISTRICT

21. **Rampur (ST)**— Korba RIC (excluding Korba Town and P.C. 21) Rampur RIC (excluding P.Cs. 73 to 80) and P.Cs. 14, 20, 22 and 30 in Tanakhar RIC in Katghora tahsil.
22. **Katghora**— Korba Town and P.C. 21 in Korba RIC, Katghora RIC and Pali RIC (excluding P.Cs. 34 and 36 to 46) in Katghora tahsil.
23. **Tanakhar (ST)**— Pasan RIC, Tanakhar RIC (excluding P.Cs. 14, 20, 22 and 30) and P.Cs. 34 and 36 to 46 in Pali RIC in Katghora tahsil.

### BILASPUR DISTRICT

24. **Marwahi (ST)**— Marwahi RIC, Gaurella RIC (excluding P.Cs. 26 to 28) and P.Cs. 31 to 33 and 37 in Kota RIC in Bilaspur tahsil.
25. **Kota**— P.Cs. 26 to 28 in Gaurella RIC, Kota RIC (excluding P.Cs. 31 to 33 and 37) and P.Cs. 64 to 67 in Ghutku-I RIC in Bilaspur tahsil and the forest villages in the area.
26. **Lormi**— Lormi RIC (excluding P.Cs. 12 to 14, 17, 35 and 36) and Pandaria RIC in Mungeli tahsil and the forest villages in the area.
27. **Mungeli (ST)**— Mungeli and Kunda RICs and P.Cs. 17, 35 and 36 in Lormi RIC in Mungeli tahsil.
28. **Jarhagaon (SC)**— P.Cs. 12 to 14 in Lormi RIC, and Jarhagaon RIC and Patharia RIC (excluding P.Cs. 84 to 91) in Mungeli tahsil.
29. **Takhatpur**— Takhatpur RIC, Ghutku-II RIC (excluding P.C. 96) and Ghutku-I RIC (excluding P.Cs. 64 to 67, 78 to 80, 97 and 98) in Bilaspur tahsil.
30. **Bilaspur**— Bilaspur Town including Railway Colony and P.Cs. 109, 110-A and 110-B in Bilaspur RIC in Bilaspur tahsil.
31. **Bilha**— Bilha RIC and P.Cs. 94, 95, 112 and 117 in Bilaspur RIC in Bilaspur tahsil and P.Cs. 81 to 91 in Patharia RIC in Mungeli tahsil.
32. **Masturi (SC)**— Masturi RIC, P.Cs. 111, 130 and 131 in Bilaspur RIC and P.Cs. 133, 135 and 136 in Sipat (Nargoda) RIC in Bilaspur tahsil.
33. **Sipat**— Sipat (Nargoda) RIC (excluding P.Cs. 133, 135 and 136), P.Cs. 107, 108

Serial No.	Name and extent of constituency
(1)	(2)

and 132 in Bilaspur RIC, P.Cs. 78 to 80, 97 and 98 in Ghutku-I RIC and P.C 96 in Ghutku-II RIC in Bilaspur tahsil and the forest villages in the area.

#### JANJGIR-CHAMPA DISTRICT

34. **Akaltara**—Baloda RIC and Akaltara RIC (excluding P.Cs. 58 and 60) in Janjgir tahsil and the forest villages in the area.
35. **Pamgarh**—Pamgarh and Nawagarh RICs, P.Cs. 58 and 60 in Akaltara RIC and P.Cs. 50, 52 and 53 in Janjgir RIC in Janjgir tahsil.
36. **Champa**—Champa RIC and Janjgir RIC (excluding P.Cs. 50, 52 and 53) in Janjgir tahsil.
37. **Sakti**—Sakti RIC in Sakti tahsil and P.Cs. 73 to 80 in Rampur RIC in Katghora tahsil.
38. **Malkharoda (SC)**—Jaijaipur RIC and Malkharoda RIC (excluding P.Cs. 51, 52, 57, 59 and 60) in Sakti tahsil.
39. **Chandrapur**—Chandrapur RIC and P.Cs. 51, 52, 57, 59 and 60 in Malkharoda RIC in Sakti tahsil.

#### RAIPUR DISTRICT

40. **Raipur Town**—Raipur town (excluding wards 20 to 24, 29, 30, 34 and 35 and non-ward municipal area).
41. **Raipur Rural**—Wards 20 to 24, 29, 30, 34 and 35 in Raipur town including non-ward municipal area. Raipur-II RIC and Raipur-I RIC (excluding P.Cs. 111, 112 and 115) in Raipur tahsil.
42. **Abhanpur**—Abhanpur and Nawapara RICs in Raipur tahsil.
43. **Mandirhasod**—Mandirhasod RIC and P.Cs. 111, 112 and 115 in Raipur-I RIC in Raipur tahsil.
44. **Arang (SC)**—Arang and Kharora RICs in Raipur tahsil.
45. **Dharsiwa**—Dharsiwa-I, Dharsiwa-II and Tilda RICs in Raipur tahsil.
46. **Bhatapara**—Simga RIC and Bhatapara RIC (excluding P.Cs. 34 to 38) in Baloda Bazar tahsil.
47. **Baloda Bazar**—P.Cs. 34 to 38 in Bhatapara RIC and Baloda Bazar and Jarod RICs in Baloda Bazar tahsil.
48. **Pallari (SC)**—Pallari and Lawan RICs in Baloda Bazar tahsil and the forest villages in the area.
49. **Kasdol**—Kasdol and Bilaigarh RICs in Baloda Bazar tahsil and the forest villages in the area.
50. **Bhatgaon (SC)**—Bhatgaon RIC in Baloda Bazar tahsil and the forest villages in the area and Bhanwarpur RIC in Mahasamund tahsil.
51. **Rajim**—Rajim RIC, Chhura RIC (excluding P.Cs. 31 to 35) and P.Cs. 36 to 39, 41 and 42 in Gariaband RIC in Bindranawagarh tashil.
52. **Bindranawagarh (ST)**—Deobhog RIC, Gariaband RIC (excluding P.Cs. 36 to

Serial No.	Name and extent of constituency
(1)	(2)
39, 41 and 42) and PCs. 31 to 35 in Chhura RIC in Bindranawagarh tahsil and the forest villages in the area.	
<b>MAHASAMUND DISTRICT</b>	
53. <b>Saraipali</b> —Saraipali and Khamharpali RICs Mahasamund tahsil.	
54. <b>Basna</b> —Basna RIC and Pithora RIC (excluding PCs. 25 to 28) in Mahasamund tahsil and the forest villages in the area.	
55. <b>Khallari</b> —Khallari and Komakhan RICs and PCs. 25 to 28 in Pithora RIC in Mahasamund tahsil and the forest villages in the area.	
56. <b>Mahasamund</b> —Mahasamund and Patewa RICs in Mahasamund tahsil and the forest villages in the area.	
<b>DHAMTARI DISTRICT</b>	
57. <b>Sihawa (ST)</b> —Sihawa RIC and Dhamtari RIC (excluding Dhamtari town and PCs. 50 to 52) in Dhamtari tahsil and the forest villages in the area.	
58. <b>Kurud</b> —Kurud and Magarlod RICs in Dhamtari tahsil and the forest villages in the area.	
59. <b>Dhamtari</b> —Bhotali RIC, Dhamtari town and PCs. 50 to 52 in Dhamtari RIC in Dhamtari tashil.	
<b>KANKER DISTRICT</b>	
60. <b>Bhanupratappur (ST)</b> —Bhanupratappur tahsil and Charama RIC (excluding PCs. 2 and 13 to 16) and PCs. 20 to 24 and 26 in Kanker RIC in Kanker tahsil.	
61. <b>Kanker (ST)</b> —Narharpur RIC, PCs. 2 and 13 to 16 in Charama RIC and Kanker RIC (excluding PCs. 20 to 24 and 26) in Kanker tahsil.	
62. <b>Narayanpur (ST)</b> —Kolibeda and Antagarh RICs and PCs. 23 to 25 in Narayanpur RIC in Narayanpur tahsil and the forest villages in the area.	
<b>BASTAR DISTRICT</b>	
63. <b>Keskal (ST)</b> —Keskal RIC and PCs. 19 to 26 in Pharsgaon RIC in Kondagaon tahsil and the forest villages in the area.	
64. <b>Kondagaon (ST)</b> —Pharasgaon RIC (excluding PCs. 19 to 26) and Kondagaon RIC (excluding PCs. 35 and 37 to 43) in Kondagaon tahsil and the forest villages in the area and Narayanpur RIC (excluding PCs. 23 to 25) in Narayanpur tahsil.	
65. <b>Bhanpuri (ST)</b> —Bhanpuri RIC and P.C. 38 in Bakawand RIC in Jagdalpur tahsil and PCs. 35 and 37 to 43 in Kondagaon RIC in Kondagaon tahsil and the forest villages in the area.	
66. <b>Jagdalpur (ST)</b> —Bakawand RIC (excluding P.C. 38), Jagdalpur (B) RIC and Jagdalpur (A) RIC (excluding PCs. 54 to 59) in Jagdalpur tahsil and the forest villages in the area.	
67. <b>Keslur (ST)</b> —PCs. 54 to 59 in Jagdalpur (A) RIC and Keslur RIC in Jagdalpur tahsil and the forest villages in the area and PCs. 7 to 9 in Chindgarh RIC in Konta tashil.	
68. <b>Chitrakote (ST)</b> —Chitrakote RIC in Jagdalpur tahsil and PCs. 1 to 9 in Dantewara RIC in Dantewara tahsil and the forest villages in the area.	
<b>DANTEWARA DISTRICT</b>	
69. <b>Dantewara (ST)</b> —Dantewara tahsil (excluding PCs. 1 to 9 Dantewara RIC) and the forest villages in the area.	

Serial No.	Name and extent of constituency
(1)	(2)

70. **Konta (ST)**—Konta tahsil (excluding P.Cs. 7 to 9 in Chindgarh RIC) and the forest villages in the area.  
 71. **Bijapur (ST)**—Bijapur tahsil and the forest villages in the area.

#### DURG DISTRICT

72. **Maro (SC)**—Maro and Nawagarh RICs and P.Cs. 46, 51, 52 and 55 to 57 in Khandsara RIC in Bemetara tahsil.  
 73. **Bemetara**—Bemetara and Anandgaon RICs and P.Cs. 47 to 50, 53 to 54 in Khandsara RIC in Bemetara tahsil.  
 74. **Saja**—Saja and Deokar RICs and Khandsara RIC (excluding P.Cs. 46 to 57) in Bemetara tahsil.  
 75. **Dhamdha**—Dhamdha and Nankathi RICs and P.Cs. 46 to 48 and 50 to 52 in Bhilai RIC in Durg tahsil.  
 76. **Durg**—Durg-I and Durg-II RICs and S.A.F. Colony, Kosa Nala, Supela Bazar West, Supela Bazar, Supela Bazar East and Supela Camp West in Bhilainagar and ex-revenue village Chhaoni lying on the periphery of Bhilainagar in Bhilai RIC in Durg tahsil.  
 77. **Bhilai**—Bhilainagar (excluding S.A.F. Colony, Kosa Nala, Supela Bazar West, Supela Bazar, Supela Bazar East, Supela Camp West and ex-revenue village Chhaoni lying on the periphery of Bhilainagar) in Bhilai RIC in Durg tahsil.  
 78. **Patan**—Bhilai RIC (excluding P.Cs. 46 to 48 and 50 to 52 and Bhilainagar) and Patan RIC (excluding P.Cs. 95 to 98) in Durg tahsil.  
 79. **Gunderdehi**—Bhatagaon and Gundérdehi RICs and P.Cs. 95 to 98 in Patan RIC in Durg tahsil.  
 80. **Khertha**—Anda RIC in Durg tahsil and Khertha RIC in Balod tahsil.  
 81. **Balod**—Gurur and Balod RICs in Balod tahsil and the forest villages in the area.  
 82. **Dondi Lohara (ST)**—Khusumkasa and Dondi Lohara RICs in Balod tahsil and the forest villages in the area.

#### RAJNANDGAON DISTRICT

83. **Chowki (ST)**—Manpur and Mohala RICs and Chowki RIC (excluding P.Cs. 99 to 105) in Rajnandgaon tahsil.  
 84. **Khujji**—Chhuria and Khujji RICs and P.Cs. 99 to 105 in Chowki RIC in Rajnandgaon tahsil and the forest villages in the area.  
 85. **Dongargaon**—Dongargaon RIC in Rajnandgaon tahsil and Lal Bahadur Nagar RIC (excluding P.C. 88) in Khairagarh tahsil and the forest villages in the area.  
 86. **Rajnandgaon**—Rajnandgaon RIC in Rajnandgaon tahsil.  
 87. **Dongargarh (SC)**—Ghumka RIC in Rajnandgaon tahsil, P.C. 88 in Lal Bahadur Nagar RIC and Dongargarh RIC and P.Cs. 52 and 55 to 61 in Pandadah RIC in Khairagarh tahsil.  
 88. **Khairagarh**—Khairagarh and Chhuikhadan RICs, Pandadah RIC (excluding P.Cs. 52 and 55 to 61) and Gandai RIC (excluding P.Cs. 6 and 8 to 14) in Khairagarh tahsil and the forest villages in the area.

Serial No.	Name and extent of constituency
(1)	(2)

**KAWARDHA DISTRICT**

89. **Birendranagar**—P.Cs. 6 and 8 to 14 in Gandai RIC in Khairagarh tahsil and Birendranagar and Sahaspur Lohara RICs and Kawardha RIC (excluding P.Cs. 28, 29, 34 and 35 and Kawardha Town) in Kawardha tahsil and the forest villages in the area.
90. **Kawardha**—Dasrangpur and Bodla RICs and Kawardha Town and P.Cs. 28, 29, 34 and 35 in Kawardha RIC in Kawardha tahsil and the forest villages in the area.”.

## THE THIRD SCHEDULE

(See section 19)

## AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950,—

(a) in paragraph 2, for the figures "XXII", the figures "XXIII" shall be substituted;

(b) in the Schedule, after Part XXII, the following shall be inserted, namely:—

## “PART XXIII.—CHHATTISGARH

1. Audhelia
2. Bagri, Bagdi
3. Bahna, Bahana
4. Balahi, Balai
5. Banchada
6. Barahar, Basod
7. Bargunda
8. Basor, Burud, Bansor, Bansodi, Bansphor, Basar
9. Bedia
10. Beldar, Sunkar
11. Bhangi, Mehtar, Balmiki, Lalbegi, Dharkar
12. Bhanumati
13. Chadar
14. Chamar, Chamari, Bairwa, Bhambhi, Jatav, Mochi, Regar, Nona, Rohidas, Ramnami, Satnami, Surjyabanshi, Surjyaramnami, Ahirwar, Chamar, Mangan, Raidas
15. Chidar
16. Chikwa, Chikvi
17. Chitar
18. Dahait, Dahayat, Dahat
19. Dewar
20. Dhanuk
21. Dhed, Dher
22. Dohor
23. Dom, Dumar, Dome, Domar, Doris
24. Ganda, Gandi
25. Ghasi, Ghasia
26. Holiya
27. Kanjar
28. Katia, Patharia
29. Khatik
30. Koli, Kori
31. Khangar, Kanera, Mirdha
32. Kuchbandhia
33. Mahar, Mehra, Mehar
34. Mang, Mang Garodi, Mang Garudi, Dankhani Mang, Mang Mahasi, Madari, Garudi, Radhe Mang
35. Meghwal
36. Moghia
37. Muskhan
38. Nat, Kalbelia, Sapera, Navdigar, Kubutar
39. Pasi
40. Ruijhar
41. Sansi, Sansia
42. Silawat
43. Zamral.”.

## THE FOURTH SCHEDULE

(See section 20)

## AMENDMENT OF THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950,—

- (a) in paragraph 2, for the figures "XIX", the figures "XX" shall be substituted;
- (b) in the Schedule,

(i) for Part VIII, the following Part shall be substituted, namely:—

## "PART VIII.—MADHYA PRADESH

1. Agariya
2. Andh
3. Baiga
4. Bhaina
5. Bharia Bhumia, Bhuinhar Bhumia, Bhumiya, Bharia, Paliha, Pando
6. Bhattra
7. Bhil, Bhilala, Barela, Patelia
8. Bhil Mina
9. Bhunjia
10. Biar, Biyar
11. Binjhwar
12. Birhul, Birhor
13. Damor, Damaria
14. Dhanwar
15. Gadaba, Gadba
16. Gond, Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Koliabuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond, Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nagwanshi, Ojha, Raj Gond, Sonjhari, Jhareka, Thatia, Thotya, Wade Maria, Vade Maria, Daroi
17. Halba, Halbi
18. Kamar
19. Karku
20. Kawar, Kanwar, Kaur, Cherwa, Rathia, Tanwar, Chattri
21. Keer (in Bhopal, Raisen and Sehore districts)
22. Khairwar, Kondar
23. Kharia
24. Kondh, Khond, Khand
25. Kol
26. Kolam
27. Korku, Bopchi, Mouasi, Nihar, Nahul, Bhodhi, Bondeya
28. Korwa, Kodaku
29. Majhi
30. Majhwar
31. Mawasi
32. Mina (in Sironj Sub-Division of Vidisha District)
33. Munda
34. Nagesia, Nagasia
35. Oraon, Dhanka, Dhangad
36. Panika [in (i) Chhatarpur, Panna, Rewa, Satna, Shahdol, Umoria, Sidhi and Tikamgarh districts, and (ii) Sevda and Datia tehsils of Datia district)]
37. Pao

38. Pardhan, Pathari, Saroti
39. Pardhi (in Bhopal, Raisen and Sehore districts)
40. Pardhi, Bahelia, Bahellia, Chita Pardhi, Langoli Pardhi, Phans Pardhi, Shikari, Takankar, Takia [in (i) Chhindwara, Mandla, Dindori and Seoni districts, (ii) Baihar tehsil of Balaghat district, (iii) Betul, Bhainsdehi and Shahpur tahsils of Betul district, (iv) Patan tahsil and Sihora and Majholi blocks of Jabalpur district, (v) Katni (Murwara) and Vijaya Raghogarh tahsils and Bahoriband and Dhemerkheda blocks of Katni district, (vi) Hoshangabad, Babai, Sohagpur, Pipariya and Bankhedi tahsils and Kesla block of Hoshangabad district, (vii) Narsinghpur district, and (viii) Harsud tahsil of Khandwa district]
41. Parja
42. Sahariya, Saharia, Seharia, Sehria, Sosia, Sor
43. Saonta, Saunta
44. Saur
45. Sawar, Sawara
46. Sonr.";

(ii) after Part XIX, the following shall be added, namely:—

**"PART XX.—CHHATTISGARH**

1. Agariya
2. Andh
3. Baiga
4. Bhaina
5. Bharia Bhumia, Bhuinhar Bhumia, Bhumiya, Bharia, Paliha, Pando
6. Bhattra
7. Bhil, Bhilala, Barela, Patelia
8. Bhil Mina
9. Bhunjia
10. Biar, Biyar
11. Binjhwar
12. Birhul, Birhor
13. Damor, Damaria
14. Dhanwar
15. Gadaba, Gadba
16. Gond, Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Kolibhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond, Gowari Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nagwansi, Ojha, Raj Gond, Sonjhari, Jhareka, Thatia, Thotya, Wade Maria, Vade Maria, Daroi
17. Halba, Halbi
18. Kamar
19. Karku
20. Kawar, Kanwar, Kaur, Cherwa, Rathia, Tanwar, Chattri
21. Khairwar, Kondar
22. Kharia
23. Kondh, Khond, Kandh
24. Kol
25. Kolam
26. Korku, Bopchi, Mouasi, Nihar, Nahul, Bondhi, Bondeya
27. Korwa, Kodaku
28. Majhi
29. Majhwar
30. Mawasi

31. Munda
32. Nagesia, Nagasia
33. Oraon, Dhanka, Dhangad
34. Pao
35. Pardhan, Pathari, Saroti
36. Pardhi, Bahelia, Bahellia, Chita Pardhi, Langoli Pardhi, Phans Pardhi, Shikari, Takankar, Takia [in (i) Bastar, Dantewara, Kanker, Raigarh, Jashpurnagar, Surguja and Korba district, (ii) Katghora, Pali, Kartala and Korba tahsils of Korba district, (iii) Bilaspur, Pendra, Kota and Takhatpur tahsils of Bilaspur district, (iv) Durg, Patan, Gunderdehi, Dhamdha, Balod, Gurur and Dondilohara tahsils of Durg district, (v) Chowki, Manpur and Mohala Revenue Inspector Circles of Rajnandgon district, (vi) Mahasamund, Saraipali and Basna tahsils of Mahasamund district, (vii) Bindra-Navagarh Rajim and Deobhog tahsils of Raipur district, and (viii) Dhamtari, Kurud and Sihava tahsils of Dhamtari district]
37. Parja
38. Sahariya, Saharia, Seharia, Sehria, Sosia, Sor
39. Saonta, Saunta
40. Saur
41. Sawar, Sawara
42. Sonr.”

## THE FIFTH SCHEDULE

(See section 42)

1. Famine Relief Fund
2. Guarantee Reserve Fund Investment Account
3. Revenue Reserve Fund Investment Account
4. State Agriculture Credit (Relief and Guarantee) Fund
5. Cash Balance Investment Account
6. Land Revenue and Stamp Fund
7. Rural Development Fund
8. Energy Development Cess Fund
9. Compensatory Afforestation Fund
10. Forest Development Cess Fund
11. Road Safety Fund
12. Depreciation/Renewal Reserve Fund
13. Madhya Pradesh Calamity Relief Fund
14. World Food Programme Project Fund
15. Madhya Pradesh State Employees' Family Benefit Fund
16. School Building Fund
17. Pensioners' Welfare Fund
18. Crop Insurance Fund.

## THE SIXTH SCHEDULE

(See section 49)

## APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of the successor State shall in respect to pensions granted before the appointed day by the existing State of Madhya Pradesh, pay the pensions drawn in its treasuries.

2. Subject to the adjustments, the liability in respect of pensions of officers serving in connection with the affairs of the existing State of Madhya Pradesh who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Madhya Pradesh.

3. There shall be computed, in respect of the period commencing on the appointed day and ending on the 31st day of March of that financial year and in respect of each subsequent financial year, the total payment made in all the successor States in respect of pension referred to in paragraphs 1 and 2. The total representing the liability of the existing State of Madhya Pradesh in respect of pension shall be apportioned between the successor State on the population ratio and any successor State paying more than its due share shall be reimbursed the excess amount by the successor State or State paying less.

4. The liability of the existing State of Madhya Pradesh in respect of pension granted before the appointed day and drawn in any area outside the territories of the existing State shall be the liability of the State of Madhya Pradesh subject to adjustments to be made in accordance with paragraph 3 as if such pensions had been drawn in any treasury in the State of Madhya Pradesh under paragraph 1.

5. (1) The liability in respect of the pensions of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Madhya Pradesh and retiring on or after that day, shall be that of the successor State granting him the pension, but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Madhya Pradesh shall be allocated between the successor State in the population ratio, and the Government granting the pension shall be entitled to receive from each of the successor State its share of this liability.

(2) If any such officer was serving after the appointed day in connection with the affairs of more than one successor State, the State Government other than the one granting the pension shall reimburse to the Government by which pension is granted an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed day under the reimbursing State bears to total qualifying service of such officer after the appointed day reckoned for the purposes of pension.

6. Any reference in this Schedule to a pension shall be construed as including a reference value of the pension.

## THE SEVENTH SCHEDULE

(See section 60)

## LIST OF GOVERNMENT COMPANIES

1. Madhya Pradesh State Industries Corporation Limited	Bhopal
2. Madhya Pradesh Laghu Udyog Nigam Limited	Bhopal
3. Madhya Pradesh State Mining Corporation Limited	Bhopal
4. Madhya Pradesh State Industrial Development Corporation Limited	Bhopal
5. Madhya Pradesh State Agro Industries Development Corporation Limited	Bhopal
6. Madhya Pradesh State Civil Supplies Corporation Limited	Bhopal
7. Madhya Pradesh State Textile Corporation Limited	Bhopal
8. Madhya Pradesh Rajya Van Vikas Nigam Limited	Bhopal
9. Madhya Pradesh State Tourism Development Corporation Limited	Bhopal
10. Madhya Pradesh Police Housing Corporation Limited	Bhopal
11. Madhya Pradesh Leather Development Corporation Limited	Bhopal
12. Madhya Pradesh Hastshilp Avam Hathkargha Vikas Nigam Limited	Bhopal
13. Madhya Pradesh Urja Vikas Nigam Limited	Bhopal
14. Madhya Pradesh State Electronics Development Corporation Limited	Bhopal
15. Madhya Pradesh Pichhra Varg Tatha Alpsankhyak Vitta Avam Vikas Nigam	Bhopal
16. Madhya Pradesh Adivasi Vitta Avam Vikas Nigam	Bhopal
17. Madhya Pradesh Export Corporation Limited	Bhopal
18. The Provident Investment Company Limited	Mumbai
19. Madhya Pradesh Film Development Corporation Limited	Bhopal
20. Optel Telecommunications Limited	Bhopal
21. Madhya Pradesh Audyogik Kendra Vikas Nigam (Bhopal) Limited	Bhopal
22. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Limited	Indore
23. Madhya Pradesh Audyogik Kendra Vikas Nigam (Raipur) Limited	Raipur
24. Madhya Pradesh Audyogik Kendra Vikas Nigam (Jabalpur) Limited	Jabalpur
25. Madhya Pradesh Audyogik Kendra Vikas Nigam (Gwalior) Limited	Gwalior
26. Madhya Pradesh Audyogik Kendra Vikas Nigam (Rewa) Limited	Rewa
27. Madhya Pradesh Agro Pesticides Limited	Bhopal
28. Madhya Pradesh Agro Oils and Cattlefeed Limited	Bhopal.

## THE EIGHTH SCHEDULE

(See section 66)

CONTINUANCE OF FACILITIES IN CERTAIN STATE INSTITUTION  
LIST OF TRAINING INSTITUTIONS/CENTRES

1. Prevention of Food Adulteration Organisation State Laboratory Controller, Lal Ghati, Bhopal.
2. State Institute of Health Management and Communication, Gwalior.
3. Madhya Pradesh State Seed Certification Agency, Officer Complex, B-2, Gautam Nagar, Bhopal.
4. Madhya Pradesh State Forest Research Institute, Polipathar, Narmada Road, Jabalpur.
5. Pandit Kunjilal Dubey Rastriya Sansadiya Vidyapeeth, Old Vidhan Sabha Campus, Bhopal.
6. Mahatma Gandhi State Institute of Rural Development and Training, Adhartal, Jabalpur.
7. Madhya Pradesh State Employment and Training Institute, Rajiv Gandhi Bhawan, Shyamla Hills, Bhopal.
8. State Academy of Administration, Hitkarni Nagar, 1100 Quarters, Bhopal.
9. Medico Legal Institute, Gandhi Medical College, Bhopal.
10. Ranger Training College, Balaghat.
11. Agriculture Cooperative Staff Training Institute of Apex Bank, Kotra Sultanabad, Bhopal.
12. Jawaharlal Nehru Police Academy, Sagar.
13. Tribal Research and Training Institute, Shyamla Hills, Bhopal.
14. Jail Training Centre, Sagar.
15. Armed Police College, Indore.
16. Police Radio Training School, Indore.
17. Central Training Institute, Home Guards and Civil Defence, Khamria, Jabalpur.
18. Forensic Science Laboratory, Sagar.
19. Madhya Pradesh Water and Land Management Institute, Walmi Hills, Near Kaliasot Dam, Kolar Road, Bhopal.
20. Judicial Officers Training Institute, High Court Campus, Jabalpur.
21. Sanjay Gandhi Youth Leadership and Rural Development Training Institute, Pachmari, District Hoshangabad.
22. State Level Training Institute, Mahalgaon, Gwalior.
23. Artificial Insemination Training Institute, Bhopal/Mandla.
24. Assistant Veterinary Field Officers Training Centre, Mahasamund, Shivpuri.
25. Poultry Training Centre, Rewa.
26. Food Analysis Unit, Bhopal.
27. Fisheries Training Institute, Raipur and Naogaon.
28. Central Semen Station, Bhopal.

29. Poultry Research Centre, Bhopal.
30. Soil Conservation Training Centre, Gwalior and Betul.
31. Plant Protection Training Centre, Obedullaganj (Raisen).
32. Officers Training Centre, Horticulture, Pachmarhi.
33. Sister Tutor Training Institute, Ujjain.
34. Central Research Laboratory Centre, Shyamla Hills, Bhopal.
35. Bureau of Design for Hydel and Irrigation Project, Bhopal.
36. Pre-Examination Training Centre for Backward Classes, Bhopal.
37. State Institute of Education Management and Training, Bhopal.
38. All India Services Pre-Examination Training Centre, Ravishankar University Campus, Raipur.
39. Excise Training Institute, Birlanagar.
40. Aviation Workshop, State Hangar, Bhopal.

# THE UTTAR PRADESH REORGANISATION ACT, 2000

## ARRANGEMENT OF SECTIONS

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8. Allocation of sitting members.

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9. Representation in the House of the People.
10. Delimitation of Parliamentary and Assembly Constituencies.
11. Provision as to sitting members.

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12. Provisions as to Legislative Assemblies.
13. Allocation of sitting members.
14. Composition of provisional Legislative Assembly of Uttaranchal.
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22. Delimitation of constituencies.
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 THE SEVENTH SCHEDULE.  
 THE EIGHTH SCHEDULE.  
 THE NINTH SCHEDULE.  
 THE TENTH SCHEDULE.

## **THE UTTAR PRADESH REORGANISATION ACT, 2000**

No. 29 of 2000

[25th August, 2000.]

An Act to provide for the reorganisation of the existing State of  
Uttar Pradesh and for matters connected therewith.

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

### **PART I**

#### **PRELIMINARY**

**1. This Act may be called the Uttar Pradesh Reorganisation Act, 2000.**

Short title.

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

Definitions.

(a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(b) "article" means an article of the Constitution;

(c) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950;

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

(e) "existing State of Uttar Pradesh" means the State of Uttar Pradesh as existing immediately before the appointed day;

(f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;

(g) "notified order" means an order published in the Official Gazette;

(h) "population ratio", in relation to the States of Uttar Pradesh and Uttarakhand, means the ratio of 1321:70;

(i) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day, is a member of that House;

(j) "successor State", in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttarakhand;

(k) "transferred territory" means the territory which on the appointed day is transferred from the existing State of Uttar Pradesh to the State of Uttarakhand;

(l) "treasury" includes a sub-treasury; and

(m) any reference to a district, tehsil or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the appointed day.

## PART II

### REORGANISATION OF THE STATE OF UTTAR PRADESH

Formation of  
Uttarakhand  
State.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttarakhand comprising the following territories of the existing State of Uttar Pradesh, namely:—

Pauri Garhwal, Tehri Garhwal, Uttar Kashi, Chamoli, Dehradun, Nainital, Almora, Pithoragarh, Udham Singh Nagar, Bageshwar, Champawat, Rudraprayag and Hardwar districts,

and thereupon the said territories shall cease to form part of the existing State of Uttar Pradesh.

State of Uttar  
Pradesh and  
territorial  
divisions  
thereof.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those specified in section 3.

Amendment of  
the First  
Schedule to  
the  
Constitution.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. THE STATES",—

(a) in the paragraph relating to the territories of the State of Uttar Pradesh, after the words, brackets and figures "clause (a) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968", the following shall be inserted, namely:—

"and the territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000";

(b) after entry 26, the following entry shall be inserted, namely:—

"27. Uttaranchal: The territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000.".

6. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Uttar Pradesh or Uttarakhand to alter, after the appointed day, the name, area or boundaries of any district or other territorial division in the State.

Saving powers  
of State  
Governments.

### PART III

#### REPRESENTATION IN THE LEGISLATURES

##### *The Council of States*

7. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

Amendment of  
the Fourth  
Schedule to  
the  
Constitution.

(a) entries 17 to 28 shall be renumbered as entries 18 to 29 respectively;

(b) in entry 16, for the figures "34", the figures "31" shall be substituted;

(c) after entry 16, the following entry shall be inserted, namely:—

"17. Uttaranchal ..... 3".

8. (1) On and from the appointed day, thirty-four sitting members of the Council of States representing the existing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Uttar Pradesh and Uttarakhand, as specified in the First Schedule to this Act.

Allocation of  
sitting  
members.

(2) The term of office of such sitting members shall remain unaltered.

##### *The House of the People*

43 of 1950.

9. On and from the appointed day, there shall be allocated 80 seats to the successor State of Uttar Pradesh, and 5 to the successor State of Uttarakhand, in the House of the People, and the First Schedule to the Representation of the People Act, 1950 shall be deemed to be amended accordingly.

Representation  
in the House  
of the People.

10. On and from the appointed day, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended as directed in the Second Schedule to this Act.

Delimitation  
of  
Parliamentary  
and Assembly  
Constituencies.

11. (1) Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of section 10, stands allotted, with or without alteration of boundaries, to the successor State of Uttar Pradesh or Uttarakhand, shall be deemed to have been elected to the House of the People by that constituency as so allotted.

Provision as to  
sitting  
members.

(2) The term of office of such sitting members shall remain unaltered.

##### *The Legislative Assembly*

12. (1) The number of seats as on the appointed day in the Legislative Assemblies of the States of Uttar Pradesh and Uttarakhand shall be four hundred and three and Seventy respectively.

Provisions as  
to Legislative  
Assemblies.

(2) In the Second Schedule to the Representation of the People Act, 1950, under heading "I. States"—

(a) entries 25 and 26 shall be renumbered as entries 26 and 27 respectively;

(b) after entry 24, the following entry shall be inserted, namely:—

43 of 1950.

(c) in entry 26 as so renumbered, for the figures "425", the figures "403" shall be substituted.

**Allocation of sitting members.**

13. (1) Every sitting member of the Legislative Assembly of the existing State of Uttar Pradesh elected to fill a seat in that Assembly from a constituency which on the appointed day by virtue of the provisions of section 10 stands allotted, with or without alteration of boundaries, to the State of Uttaranchal shall, on and from that day, cease to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the provisional Legislative Assembly of Uttaranchal from that constituency as so allotted.

(2) All other sitting members of the Legislative Assembly of the existing State of Uttar Pradesh shall continue to be members of the Legislative Assembly of that State and any such sitting member representing a constituency the extent or the name and extent of which are altered by virtue of the provisions of section 10 shall be deemed to have been elected to the Legislative Assembly of Uttar Pradesh by that constituency as so altered.

(3) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assemblies of Uttar Pradesh and Uttaranchal shall be deemed to be duly constituted on the appointed day.

(4) The sitting member of the Legislative Assembly of the existing State of Uttar Pradesh nominated to that Assembly under article 333 to represent the Anglo-Indian community shall be deemed to have been nominated to represent the said community in the Legislative Assembly of Uttar Pradesh under that article.

**Composition of provisional Legislative Assembly of Uttaranchal.**

14. (1) On and from the appointed day and until the Legislative Assembly of the successor State of Uttaranchal has been duly constituted and summoned to meet for the first session under the provisions of the Constitution, a provisional Legislative Assembly of the State of Uttaranchal, consisting of the twenty-two sitting members of the Legislative Assembly and nine members of the Legislative Council of the existing State of Uttar Pradesh representing the Assembly constituencies or Council constituencies of the territories transferred by virtue of the provisions of section 3 shall be constituted.

(2) The provisional Legislative Assembly of the State of Uttaranchal shall exercise all the powers and perform all the duties conferred by the provisions of the Constitution on the Legislative Assembly of that State.

(3) The term of office of the members of the provisional Legislative Assembly of the State of Uttaranchal shall, unless the said Legislative Assembly is sooner dissolved, expire immediately before the first meeting of the Legislative Assembly of the State of Uttaranchal.

**Duration of Legislative Assemblies.**

15. The period of five years referred to in clause (1) of article 172 shall, in the case of the Legislative Assembly of the State of Uttar Pradesh, be deemed to have commenced on the date on which it actually commenced in the case of the Legislative Assembly of the existing State of Uttar Pradesh.

**Speaker and Deputy Speaker.**

16. (1) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Uttar Pradesh shall continue to be the Speaker and Deputy Speaker respectively of that Assembly on and from that day.

(2) As soon as may be after the appointed day, the provisional Legislative Assembly of the successor State of Uttaranchal shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

**Rules of procedure.**

17. The rules of procedure and conduct of business of the Legislative Assembly of Uttar Pradesh as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the

Legislative Assembly of Uttaranchal, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

*The Legislative Council of Uttar Pradesh*

43 of

18. On and from the appointed day, there shall be ninety-nine seats in the Legislative Council of Uttar Pradesh, and in the Third Schedule to the Representation of the People Act, 1950, for the existing entry 8, the following entry shall be substituted, namely:

~~8. Uttar Pradesh .....~~ 99 / 36 - 8 - 8 - 37 = 10".

19. On and from the appointed day, the Delimitation of the Council Constituencies (Uttar Pradesh) Order, 1951 shall stand amended as directed in the Third Schedule.

Legislative  
Council of  
Uttar Pradesh.

Amendment of  
the  
Delimitation  
of Council  
Constituencies.

20. (1) On and from the appointed day, the sitting members of the Legislative Council of the existing State of Uttar Pradesh specified in the Fourth Schedule to this Act shall cease to be members of that Council and shall be deemed to be the members of the provisional Legislative Assembly.

Provision as to  
certain sitting  
members.

(2) On and from the appointed day, all sitting members of the Legislative Council of the existing State of Uttar Pradesh other than those referred to in sub-section (1) shall continue to be members of that Council.

(3) The term of office of the members referred to in sub-section (2) shall remain unaltered.

21. The person who immediately before the appointed day is the Deputy Chairman of the Legislative Council of the existing State of Uttar Pradesh shall continue to be the Deputy Chairman, on and from that day of that Council.

Deputy  
Chairman.

*Delimitation of constituencies*

22. (1) For the purpose of giving effect to the provisions of section 12, the Election Commission shall determine in the manner hereinafter provided—

Delimitation  
of  
constituencies.

(a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States of Uttar Pradesh and Uttaranchal, respectively, having regard to the relevant provisions of the Constitution;

(b) the assembly constituencies into which each State referred to in clause (a) shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes; and

(c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each State referred to in clause (a) that may be necessary or expedient.

(2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:

(a) all the constituencies shall be single-member constituencies;

(b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and conveniences to the public; and

(c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

Subs. by Art. 78 2004, S. 2 (w.e.f. 9-11-2000)

(3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), associate with itself as associate members, five persons as the Central Government may by order specify, being persons who are the members of the Legislative Assembly of the State or of the House of the People representing the State:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (3).

(5) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified; and

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the concerned State.

23. (1) The Election Commission may, from time to time, by notification in the Official Gazette,—

(a) correct any printing mistakes in any order made under section 22 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the concerned Legislative Assembly.

#### *Scheduled Castes and Scheduled Tribes*

Amendment of the Scheduled Castes Order.  
24. On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the Fifth Schedule to this Act.

Amendment of the Scheduled Tribes Order.  
25. On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Sixth Schedule to this Act.

#### PART IV

#### HIGH COURT

High Court of Uttarakhand.  
26. (1) As from the appointed day, there shall be a separate High Court for the State of Uttarakhand (hereinafter referred to as "the High Court of Uttarakhand") and the High Court of Judicature at Allahabad shall become the High Court for the State of Uttar Pradesh (hereinafter referred to as the High Court at Allahabad).

(2) The principal seat of the High Court of Uttarakhand shall be at such place as the President may, by notified order, appoint.

(3) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Uttaranchal may sit at such other place or places in the State of Uttaranchal other than its principal seat as the Chief Justice may, with the approval of the Governor of Uttaranchal, appoint.

**27. (1)** Such of the Judges of the High Court at Allahabad holding office immediately before the appointed day as may be determined by the President shall on that day cease to be Judges of the High Court at Allahabad and become, Judges of the High Court of Uttaranchal.

Judges of  
Uttaranchal  
High Court.

(2) The persons who by virtue of sub-section (1) become Judges of the High Court of Uttaranchal shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the priority of their respective appointments as Judges of the High Court at Allahabad.

**28.** The High Court of Uttaranchal shall have, in respect of any part of the territories included in the State of Uttaranchal, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of that part of the said territories by the High Court at Allahabad.

Jurisdiction of  
Uttaranchal  
High Court.

25 of 1961.

**29. (1)** On and from the appointed day, in the Advocates Act, 1961, in section 3, in sub-section (1), in clause (a), for the words "and Uttar Pradesh", the words "Uttar Pradesh and Uttaranchal" shall be substituted.

Special  
provision  
relating to Bar  
Council and  
advocates.

25 of 1961.

(2) Any person who immediately before the appointed day is an advocate on the roll of the Bar Council of the existing State of Uttar Pradesh may give his option in writing, within one year from the appointed day to the Bar Council of such existing State, to transfer his name on the roll of the Bar Council of Uttaranchal and notwithstanding anything contained in the Advocates Act, 1961 and the rules made thereunder, on such option so given his name shall be deemed to have been transferred on the roll of the Bar Council of Uttaranchal with effect from the date of the option so given for the purposes of the said Act, and the rules made thereunder.

(3) The persons other than the advocates who are entitled immediately before the appointed day, to practise in the High Court at Allahabad or any subordinate court thereof shall, on and after the appointed day, be recognised as such persons entitled also to practise in the High Court of Uttaranchal or any subordinate court thereof, as the case may be.

(4) The right of audience in the High Court of Uttaranchal shall be regulated in accordance with the like principles as immediately before the appointed day are in force with respect to the right of audience in the High Court at Allahabad.

**30.** Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Allahabad shall, with the necessary modifications, apply in relation to the High Court of Uttaranchal, and accordingly, the High Court of Uttaranchal shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court at Allahabad:

Practice and  
procedure in  
Uttaranchal  
High Court.

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court at Allahabad shall, until varied or revoked by rules or orders made by the High Court of Uttaranchal, apply with the necessary modifications in relation to practice and procedure in the High Court of Uttaranchal as if made by that Court.

**31.** The law in force immediately before the appointed day with respect to the custody of the seal of the High Court at Allahabad shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Uttaranchal.

Custody of  
seal of  
Uttaranchal  
High Court.

**32.** The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Allahabad shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Uttaranchal.

Form of writs  
and other  
processes.

Powers of Judges.

**33.** The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and division courts of the High Court at Allahabad and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Uttarakhand.

Procedure as to appeals to Supreme Court.

**34.** The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court at Allahabad and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Court of Uttarakhand.

Transfer of proceedings from

Allahabad High Court to Uttarakhand High Court.

**35. (1)** Except as hereinafter provided, the High Court at Allahabad shall, as from the appointed day, have no jurisdiction in respect of the transferred territory.

(2) Such proceedings pending in the High Court at Allahabad immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Uttarakhand shall, as soon as may be after such certification, be transferred to the High Court of Uttarakhand.

(3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in section 28, but save as hereinafter provided, the High Court at Allahabad shall have, and the High Court of Uttarakhand shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Allahabad before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court at Allahabad, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Uttarakhand, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

**(4) Any order made by the High Court at Allahabad—**

(a) before the appointed day, in any proceedings transferred to the High Court of Uttarakhand by virtue of sub-section (2), or

(b) in any proceedings with respect to which the High Court at Allahabad retains jurisdiction by virtue of sub-section (3),

shall for all purposes have effect, not only as an order of the High Court at Allahabad, but also as an order made by the High Court of Uttarakhand.

Right to appear or to act in proceedings transferred to Uttarakhand High Court.

**36.** Any person who, immediately before the appointed day, is an advocate entitled to practise or any other persons entitled to practise in the High Court at Allahabad and was authorised to appear in any proceedings transferred from that High Court to the High Court of Uttarakhand under section 35, shall have the right to appear in the High Court of Uttarakhand in relation to those proceedings.

Interpretation.

**37. For the purposes of section 35—**

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

**38.** Nothing in this Part shall affect the application to the High Court of Uttarakhand of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

Savings.

## PART V

### AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

**39.** The Governor of Uttar Pradesh may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Uttarakhand:

Authorisation of expenditure of Uttarakhand State.

Provided that the Governor of Uttarakhand may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Uttarakhand for any period not extending beyond the said period of six months.

**40.** (1) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Uttar Pradesh in respect of any period prior to the appointed day shall be submitted to the Governor of each of the successor States of Uttar Pradesh and Uttarakhand who shall cause them to be laid before the Legislature of that State.

Reports relating to accounts of Uttar Pradesh State.

(2) The President may by order—

(a) declare any expenditure incurred out of the Consolidated Fund of Uttar Pradesh on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and

(b) provide for any action to be taken on any matter arising out of the said reports.

**41.** The President shall, by order, determine the share of the States of Uttar Pradesh and Uttarakhand in its total amount payable to the existing State of Uttar Pradesh on the recommendation of the Finance Commission constituted under article 280 in such manner as he thinks fit.

Distribution of revenue.

## PART VI

### APPORTIONMENT OF ASSETS AND LIABILITIES

**42.** (1) The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Application of Part.

(2) The successor States shall be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States shall be liable to bear the financial liabilities arising out of the decisions taken by the existing State of Uttar Pradesh.

(3) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities amongst the successor States.

(4) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by the Central Government on the advice of the Comptroller and Auditor-General of India.

**43.** (1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

Land and goods.

(a) if within the transferred territory, pass to the State of Uttarakhand; or

(b) in any other case, remain the property of the State of Uttar Pradesh:

Provided that where the Central Government is of opinion that any goods or class of goods should be distributed among the States of Uttar Pradesh and Uttarakhand, otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly:

Provided further that in case of any dispute relating to the distribution of any goods or class of goods under this sub-section, the Central Government shall endeavour to settle such dispute through mutual agreement arrived at between the Governments of the successor States for that purpose, failing which the Central Government may, on request by any of the Governments of the successor States, after consulting both the Governments of the successor States, issue such direction as it may deem fit for the distribution of such goods or class of goods, as the case may be, under this sub-section.

(2) Stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops, undertakings or works are located.

(3) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may, after consultation with the Government of each successor States, think fit to issue for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years prior to the appointed day, for the territories of the existing State of Uttar Pradesh included respectively in each of the successor States:

Provided that where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed rupees ten thousand, that class of stores shall be divided between the successor States according to the population ratio.

(5) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and  
bank balances.

44. The total of the cash balances in all treasuries of the State of Uttar Pradesh and the credit balances of the State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the States of Uttar Pradesh and Uttarakhand according to the population ratio:

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the two States in the books of the Reserve Bank of India on the appointed day:

Provided further that if the State of Uttarakhand has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order, direct.

Arrears of  
taxes.

45. The right to recover arrears of the tax or duty on property, including arrears of land revenue, shall belong to the successor State in which the property is situated, and the right to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

**46.** (1) The right of the existing State of Uttar Pradesh to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within that State shall belong to the successor State in which that area is included on that day.

Right to recover loans and advances.

(2) The right of the existing State of Uttar Pradesh to recover any loans or advances made before the appointed day to any person or institution outside that State shall belong to the State of Uttar Pradesh:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Uttar Pradesh and Uttarakhand according to the population ratio.

**47.** (1) The securities held in respect of the investments made from Cash Balances Investment Account or from any Fund in the Public Account of the existing State of Uttar Pradesh as specified in the Seventh Schedule shall be apportioned in the ratio of population of the successor States:

Investments and credits in certain funds.

Provided that the securities held in investments made from the Calamity Relief Fund of the existing State of Uttar Pradesh shall be divided in the ratio of the area of the territories occupied by the successor States:

Provided further that the balance in the Reserve Funds in the Public Account of Uttar Pradesh created wholly out of appropriations from the Consolidated Fund of the existing State of Uttar Pradesh, to the extent the balances have not been invested outside Government account, shall not be carried forward to similar Reserve Funds in the Public Account of the successor States.

(2) The investments of the existing State of Uttar Pradesh immediately before the appointed day in any special fund, the objects of which are confined to a local area, shall belong to the State in which that area is included on the appointed day.

(3) The investments of the existing State of Uttar Pradesh immediately before the appointed day in any private, commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the Cash Balances Investment Account, shall pass to the State in which the principal seat of business of the undertaking is located.

(4) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Uttar Pradesh or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the existing State of Uttar Pradesh made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Uttar Pradesh and Uttarakhand in the same proportion in which the assets of the body corporate are divided under the provisions of this Part.

**48.** (1) The assets and liabilities relating to any commercial or industrial undertaking of the State of Uttar Pradesh shall pass to the State in which the undertaking is located.

Assets and liabilities of State undertakings.

(2) Where a depreciation reserve fund is maintained by the State of Uttar Pradesh for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

**49.** (1) All liabilities on account of Public Debt and Public Account of the existing State of Uttar Pradesh outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is provided under the provisions of this Act.

Public Debt.

(2) The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor-General of India:

Provided that till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Uttar Pradesh shall continue to be the liabilities of the successor State of Uttar Pradesh.

(3) The liability on account of loan raised from any source and re-lent by the existing State of Uttar Pradesh to such entities as may be specified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as specified in sub-section (4).

(4) The public debt of the existing State of Uttar Pradesh attributable to loan taken from any source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall,—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or

(b) if re-lent to the Uttar Pradesh Power Corporation Limited, the Uttar Pradesh Jal Vidyut Nigam Limited, the Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited, the Uttar Pradesh State Road Transport Corporation, or the Uttar Pradesh Housing Board or any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Uttar Pradesh and Uttarakhand in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII.

(5) Where a sinking fund or a depreciation fund is maintained by the existing State of Uttar Pradesh for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the successor States of Uttar Pradesh and Uttarakhand in the same proportion in which the total public debt is divided between the two States under this section.

(6) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under, clause (2) of section 2 of the Public Debt Act, 1944.

**Floating Debt.**

50. The liability of the State of Uttar Pradesh in respect of any floating loan to provide short-term finance to any commercial undertaking shall be the liability of the State in whose territories the undertaking is located.

**Refund of taxes collected in excess.**

51. The liability of the existing State of Uttar Pradesh to refund any tax or duty on property, including land revenue, collected in excess shall be the liability of the successor State in whose territories the property is situated, and the liability of the existing State of Uttar Pradesh to refund any other tax or duty collected in excess shall be the liability of the successor State in whose territories the place of assessment of that tax or duty is included.

**Deposits, etc.**

52. (1) The liability of the existing State of Uttar Pradesh in respect of any civil deposit or local fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.

(2) The liability of the existing State of Uttar Pradesh in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment, under the terms thereof, are confined.

**Provident fund.**

53. The liability of the existing State of Uttar Pradesh in respect of the provident fund account of a Government servant in service on the appointed day shall, as from that day, be the liability of the State to which that Government servant is permanently allotted.

**Pensions.**

54. The liability of the existing State of Uttar Pradesh in respect of pensions shall pass to, or be apportioned between, the successor States of Uttar Pradesh and Uttarakhand in accordance with the provisions contained in the Eighth Schedule to this Act.

**Contracts.**

55. (1) Where, before the appointed day, the existing State of Uttar Pradesh has

made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power—

(a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of either of the successor States of Uttar Pradesh and Uttarakhand; and

(b) in any other case, of the State of Uttar Pradesh,

and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Uttar Pradesh, be rights or liabilities of the State of Uttarakhand or the State of Uttar Pradesh, as the case may be:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor States of Uttar Pradesh and Uttarakhand or in default of such agreement, as the Central Government may, by order, direct.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in or in connection with any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligation; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

**56. Where, immediately before the appointed day, the existing State of Uttar Pradesh is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—**

(a) if the cause of action arose wholly within the territories which, as from that day, are the territories of either of the successor States of Uttar Pradesh or Uttarakhand, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Uttar Pradesh, but subject to such financial adjustment as may be agreed upon between the States of Uttar Pradesh and Uttarakhand or, in default of such agreement, as the Central Government may, by order, direct.

Liability in respect of actionable wrong.

**57. Where, immediately before the appointed day, the existing State of Uttar Pradesh is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the existing State of Uttar Pradesh shall,—**

(a) if the area of operations of such society or persons is limited to the territories which, as from that day, are the territories of either of the States of Uttar Pradesh or Uttarakhand, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Uttar Pradesh, subject to such financial adjustment as may be agreed upon between the States of Uttar Pradesh and Uttarakhand or, in default of such agreements, as the Central Government may, by order, direct.

Liability as guarantor.

**58. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.**

Items in suspense.

**59. The benefit or burden of any asset or liability of the existing State of Uttar Pradesh not dealt with in the foregoing provisions of this Part shall pass to the State of Uttar Pradesh in the first instance, subject to such financial adjustment as may be agreed upon between the States of Uttar Pradesh and Uttarakhand or, in default of such agreement, as the Central Government may, by order, direct.**

Residuary provision.

**Apportionment of assets or liabilities by agreement.**

60. Where the successor States of Uttar Pradesh and Uttarakhand agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

**Power of Central Government to order allocation or adjustment in certain cases.**

61. Where, by virtue of any of the provisions of this Part, any of the successor States of Uttar Pradesh and Uttarakhand becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made within a period of three years from the appointed day by either of the States, that it is just and equitable that property or those benefits should be transferred to, or shared with, the other successor State, or that a contribution towards that liability should be made by the other successor State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order, determine.

**Certain expenditure to be charged on Consolidated Fund.**

62. All sums payable either by the State of Uttar Pradesh or by the State of Uttarakhand to the other States or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

## PART VII

### PROVISIONS AS TO CERTAIN CORPORATIONS

**Provisions for Power Corporation Limited, etc.**

63. (1) The following bodies corporate constituted for the existing State of Uttar Pradesh, namely:—

- (a) the Uttar Pradesh Power Corporation Limited, the Uttar Pradesh Jal Vidyut Nigam Limited and the Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited;
- (b) the Uttar Pradesh Electricity Regulatory Commission; and
- (c) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962,

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

58 of 1962.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Power Corporation, Commission or Warehousing Corporation shall include a direction that the Act under which the Power Corporation, Commission or Warehousing Corporation was constituted shall, in its application to that Power Corporation, Commission or Warehousing Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.

(3) The Power Corporation, Commission or Warehousing Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on such date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States of Uttar Pradesh and Uttarakhand in such manner as may be agreed upon between them within one year of the dissolution of the Power Corporation, Commission or Warehousing Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order, determine:

Provided that any liabilities of any of the said Power Corporations referred to in clause (a) of sub-section (1) relating to the unpaid dues of the coal supplied to the Power Corporation by any public sector coal company shall be provisionally apportioned between the corresponding Power Corporations constituted respectively in the successor States of

the existing State of Uttar Pradesh or after the date appointed for the dissolution of the Power Corporation under this sub-section in such manner as may be agreed upon between the Governments of the successor States within one month of such dissolution or if no agreement is reached, in such manner as the Central Government may by order determine subject to reconciliation and finalisation of the liabilities which shall be completed within three months from the date of such dissolution by the mutual agreement between the successor States or failing such agreement by the direction of the Central Government:

Provided further that an interest at the rate of two per cent. higher than the cash credit interest shall be paid on outstanding unpaid dues of the coal supplied to the Electricity Corporation by the public sector coal company till the liquidation of such dues by the concerned State Power Corporation constituted in the successor States on or after the date appointed for the dissolution of the Power Corporation under this sub-section.

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Uttar Pradesh or, as the case may be, the Government of the State of Uttarakhand from constituting, at any time on or after the appointed day, a State Power Corporation, an Electricity Regulatory Commission or a State Warehousing Corporation for the State under the provisions of this Act relating to such Power Corporation, Commission or Warehousing Corporation; and if such a Power Corporation, Commission or Warehousing Corporation is so constituted in either of the States before the dissolution of the Power Corporation, Commission or Warehousing Corporation referred to in sub-section (1),—

(a) provision may be made by order of the Central Government enabling the new Power Corporation, new Commission or the new Warehousing Corporation to take over from the existing Power Corporation, Commission or Warehousing Corporation all or any of its undertakings, assets, rights and liabilities in that State, and

(b) upon the dissolution of the existing Power Corporation, Commission or Warehousing Corporation,—

(i) any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board, new Commission or the new Warehousing Corporation instead of to that State;

(ii) any employee who would otherwise have been transferred to or re-employed by that State under sub-section (3), read with clause (i) of sub-section (5), shall be transferred to or re-employed by the new Power Corporation, new Commission or the new Warehousing Corporation instead of to or by that State.

(5) An agreement entered into between the successor States under sub-section (3) and an order made by the Central Government under that sub-section or under clause (a) of sub-section (4) may provide for the transfer or re-employment of any employee of the Power Corporation, Commission or Warehousing Corporation referred to in sub-section (1),—

(i) to or by the successor States, in the case of an agreement under sub-section (2) or an order made under that sub-section;

(ii) to or by the new Power Corporation, new Commission or the new Warehousing Corporation constituted under sub-section (4), in the case of an order made under clause (a) of that sub-section,

and, subject to the provisions of section 68, also for the terms and conditions of service applicable to such employees after such transfer or re-employment.

64. If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may, after consultation with the Government of each successor States wherever necessary, give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement.

Continuance  
of  
arrangements  
in regard to  
generation and  
supply of  
electric power  
and supply of  
water.

Provisions as  
to Uttar  
Pradesh State  
Financial  
Corporation.

**65. (1)** The Uttar Pradesh State Financial Corporation established under the State Financial Corporations Act, 1951 shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

63 of 1951.

**(2)** Any directions issued by the Central Government under sub-section (1) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

**(3)** Notwithstanding anything contained in sub-section (1) or sub-section (2), the Board of Directors of the Corporation may, with the previous approval of the Central Government and shall, if so required by the Central Government, convene at any time after the appointed day a meeting for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new Corporations, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

**(4)** If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be binding on the Corporations affected by the scheme as well as the shareholders and creditors thereof.

**(5)** If the scheme is not so approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court of Uttar Pradesh and Uttarakhand as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the Corporations affected by the scheme as well as the shareholders and creditors thereof.

**(6)** Nothing in the preceding provisions of this section shall be construed as preventing the Government of the States of Uttar Pradesh and Uttarakhand from constituting, at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

63 of 1951.

Provisions as  
to certain  
companies.

**66. (1)** Notwithstanding anything contained in the foregoing provisions of this Part, each of the companies specified in the Ninth Schedule to this Act shall, on and from the appointed day and until otherwise provided for in any law, or in any agreement among the successor States, or in any direction issued by the Central Government, continue to function in the areas in which it was functioning immediately before that day; and the Central Government may from time to time issue such directions in relation to such functioning as it may deem fit, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law.

1 of 1956.

**(2)** Any directions issued under sub-section (1) in respect of a company referred to in that sub-section, may include directions—

**(a)** regarding the division of the interests and shares of existing State of Uttar Pradesh in the Company among the successor States;

**(b)** requiring the reconstitution of the Board of Directors of the Company so as to give adequate representation to all the successor States.

General  
provision as to  
statutory  
Corporations.

**67. (1)** Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Uttar Pradesh or any part thereof has, by virtue of the provisions of Part II, become an inter-State body corporate, then, the body corporate shall, on and from the appointed day, continue to function and operate in those areas in respect of which it

was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

(2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

59 of 1988.

**68. (1)** Notwithstanding anything contained in section 89 of the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Uttar Pradesh or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Uttarakhand or any Regional Transport Authority therein for the purpose of validating it for use in such area:

Provided that the Central Government may, after consultation with the successor State Government or Governments concerned add to amend or vary the conditions attached to the permit by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor States under any such permit, if such vehicle was, immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may, after consultation with the State Government or Governments concerned, authorise the levy of any such toll, entrance fees or other charges, as the case may be:

Provided further that the provisions of this sub-section shall not be applicable where any such tolls, entrance fees or other charges of a like nature is leviable for the use of any road or bridge which is constructed or developed for commercial purpose by the State Government, an undertaking of the State Government, a joint undertaking in which the State Government is a shareholder or a private sector.

14 of 1947.

**69.** Where on account of the reorganisation of the existing State of Uttar Pradesh under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by, any other body corporate, or in any other co-operative society or undertaking, then, notwithstanding anything contained in section 25F or section 25FF or section 25FFF of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section:

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F or section 25FF or section 25FFF of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

Temporary provisions as to continuance of certain existing road transport permits.

Special provisions relating to retrenchment compensation in certain cases.

14 of 1947.

Special provision as to income-tax.

**70.** Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first-mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961, shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

43 of 1961.

Continuance of facilities in certain State institutions.

**71.** (1) The Government of State of Uttar Pradesh or Uttarakhand, as the case may be, shall, in respect of the institutions specified in the Tenth Schedule to this Act, located in that State, continue to provide facilities to the people of the other State which shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments before the 1st day of December, 2001 or if no agreement is reached by the said date as may be fixed by order of the Central Government.

(2) The Central Government may, at any time before the 1st day of December, 2001, by notification in the Official Gazette, specify in the Tenth Schedule referred to in sub-section (1) any other institution existing on the appointed day in the States of Uttar Pradesh and Uttarakhand and on the issue of such notification, such Schedule shall be deemed to be amended by the inclusion of the said institution therein.

## PART VIII

### PROVISIONS AS TO SERVICES

Provisions relating to All-India Services.

**72.** (1) In this section, the expression "State cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) In place of the cadres of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Uttar Pradesh, there shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttarakhand in respect of each of these services.

(3) The initial strength and composition of the State cadres referred to in sub-section (2) shall be such as the Central Government may, by order, determine before the appointed day.

(4) The members of each of the said services borne on the Uttar Pradesh cadre thereof immediately before the appointed day shall be allocated to the State cadres of the same service constituted under sub-section (2) in such manner and with effect from such date or dates as the Central Government may, by order, specify.

(5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Services Act, 1951, or the rules made thereunder.

61 of 1951.

Provisions relating to other services.

**73.** (1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Uttar

Pradesh unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Uttarakhand:

Provided that every direction under this sub-section issued after the expiry of a period of one year from the appointed day shall be issued with the consultation of the Governments of the successor States.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

**74. (1)** Nothing in this section or in section 73 shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Uttar Pradesh or to the State of Uttarakhand under section 73 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person,—

(a) if he is deemed to have been allocated to any State under section 73, shall be deemed to have been rendered in connection with the affairs of that State;

(b) if he is deemed to have been allocated to the Union in connection with the administration of the Uttarakhand, shall be deemed to have been rendered in connection with the affairs of the Union,

for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 73, shall not apply in relation to members of any All-India Service.

**75. (1)** Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Uttar Pradesh in any area which on that day falls within any of the successor States shall continue to hold the same post or office in that successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in that successor State:

Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

**76.** The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—

(a) the discharge of any of its functions under this Part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

Other provisions relating to services.

Provisions as to continuance of officers in same post.

Advisory Committees.

Power of  
Central  
Government to  
give  
directions.

Provisions as  
to State Public  
Service  
Commission.

77. The Central Government may give such directions to the State Government of Uttar Pradesh and the State Government of Uttarakhand as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions.

78. (1) The Public Service Commission for the existing State of Uttar Pradesh shall, on and from the appointed day, be the Public Service Commission for the State of Uttar Pradesh.

(2) The persons holding office immediately before the appointed day as the Chairman or other member of the Public Service Commission for the existing State of Uttar Pradesh shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the State of Uttar Pradesh.

(3) Every person who becomes the Chairman or other member of the Public Service Commission for the State of Uttar Pradesh on the appointed day under sub-section (2), shall—

(a) be entitled to receive from the Government of the State of Uttar Pradesh conditions of service not less favourable than those to which he was entitled under the provisions applicable to him;

(b) subject to the proviso to clause (2) of article 316, hold office or continue to hold office until the expiration of his term of office as determined under the provisions applicable to him immediately before the appointed day.

(4) The report of the Uttar Pradesh Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of the States of Uttar Pradesh and Uttarakhand, and the Governor of the State of Uttar Pradesh shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Uttar Pradesh and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Uttarakhand.

## PART IX

### MANAGEMENT AND DEVELOPMENT OF WATER RESOURCES

Water  
Resources  
Development  
and its  
Management.

79. (1) Notwithstanding anything contained in this Act but subject to the provisions of section 80, all rights and liabilities of the existing State of Uttar Pradesh in respect of water resource projects in relation to—

(i) Ganga and its tributaries traversing the successor States excluding the Upper Yamuna River up to Okhla; and

(ii) Upper Yamuna River and its tributaries up to Okhla,

shall, on the appointed day, be the rights and liabilities of the successor States in such proportion as may be fixed, and subject to such adjustments as may be made, by agreement entered into by the said States after consultation with the Central Government, or, if no such agreement is entered into within two years of the appointed day, then, the Central Government may, by order, determine within one year having regard to the purposes of the project:

Provided that the order so made by the Central Government may be varied by any subsequent agreement entered into by the successor States after consultation with the Central Government.

(2) An agreement or order referred to in sub-section (1) shall, where an extension or further development of any of the projects referred to in that sub-section after the appointed day is undertaken, be the rights and liabilities of the successor States in relation to such extension or further development.

(3) The rights and liabilities referred to in sub-sections (1) and (2) shall include—

- (a) the right to receive and utilise the water available for distribution as a result of the projects; and
- (b) the right to receive and utilise the power generated as a result of the projects,

but shall not include the rights and liabilities under any contract entered into before the appointed day by the Government of the existing State of Uttar Pradesh with any person or authority other than Government.

**80.** (1) The Central Government shall constitute a Board to be called the Ganga Management Board (hereinafter referred to as the Board) for administration, construction, maintenance and operation of projects referred to in sub-section (1) of section 79 for any or for a combination of the following purposes, namely:—

Constitution  
and functions  
of the Ganga  
Management  
Board.

- (i) irrigation;
- (ii) rural and urban water supply;
- (iii) hydro power generation;
- (iv) navigation;
- (v) industries; and
- (vi) for any other purpose which the Central Government may, by notification in the Official Gazette, specify.

(2) The Board shall consist of—

- (a) a whole-time Chairman to be appointed by the Central Government in consultation with the successor States;
- (b) two full time members, one from each of the successor States, to be nominated by the respective State Government;
- (c) four part-time members, two from each of the successor States, to be nominated by the respective State Government;
- (d) two representatives of the Central Government to be nominated by that Government.

(3) The functions of the Board shall include—

- (a) the regulation of supply of water from the projects referred to in clause (i) of sub-section (1) of section 79 to the successor States having regard to—
  - (i) any agreement entered into or arrangement made covering the Government of existing State of Uttar Pradesh and any other State or Union territory, and
  - (ii) the agreement or the order referred to in sub-section (2) of section 79;
- (b) the regulation of supply of power generated at the projects referred to in clause (i) of sub-section (1) of section 79, to any Electricity Board or other authority in-charge of the distribution of power having regard to—
  - (i) any agreement entered into, or arrangement made covering the Government of the existing State of Uttar Pradesh and any other State or Union territory, and
  - (ii) the agreement or the order referred to in sub-section (2) of section 79;
- (c) the construction of such of the remaining on-going or new works connected with the development of the water resources projects relating to the rivers or their tributaries as the Central Government may specify by notification in the Official Gazette;

(d) such other functions as the Central Government may, after consultation with the successor States entrust to it.

**Staff of the Management Board.**

81. (1) The Board may employ such staff, as it may consider necessary for the efficient discharge of its functions under this Act. Such staff shall at the first instance, be appointed on deputation from the successor State failing which through any other method:

Provided that every person who, immediately before the constitution of the said Board, was engaged in the construction, maintenance or operation of the works relating to the projects referred to in clause (i) of sub-section (1) of section 79 shall continue to be so employed under the Board in connection with the said works on the same terms and conditions of service as were applicable to him before such constitution until the Central Government, by order, directs otherwise:

Provided further that the said Board may, in consultation with the Government of the successor State or the Electricity Board concerned and with the prior approval of the Central Government, retain any such person for service under that State Government or Board.

(2) The Government of the successor States shall at all times provide the necessary funds to the Board to meet all expenses (including the salaries and allowances of the staff) required for the discharge of its functions and such amounts shall be apportioned between the States concerned in such proportion as the Central Government may, having regard to the benefits to each of the said States specify.

(3) The Board shall be under the control of the Central Government and shall comply with such directions, as may, from time to time, be given to it by that Government.

(4) The Board may delegate such of its powers, functions and duties as it may deem fit to the Chairman of the said Board or to any officer subordinate to the Board.

(5) The Central Government may, for the purpose of enabling the Board to function efficiently, issue such directions to the State Governments concerned, or any other authority, and the State Governments, or the other authority shall comply with such directions.

**Jurisdiction of the Board.**

82. (1) The Board shall, ordinarily exercise jurisdiction in regard to any of the projects referred to in clause (i) of sub-section (1) of section 79 over headworks (barrages, dams, reservoirs, regulating structures), part of canal network and transmission lines necessary to deliver water or power to the States concerned.

(2) If any question arises as to whether the Board has jurisdiction under sub-section (1) over any project referred thereto, the same shall be referred to the Central Government for decision thereon.

**Power of Board to make regulations.**

83. The Board may make regulations consistent with the Act and the rules made thereunder, to provide for—

(a) regulating the time and place of meetings of the Board and the procedure to be followed for the transaction of business at such meetings;

(b) delegation of powers and duties of the Chairman or any officer of the Board;

(c) the appointment and regulation of the conditions of service of the officers and other staff of the Board;

(d) any other matter for which regulations are considered necessary by the Board.

**Allocation of the water resources of the River Yamuna.**

84. (1) The utilisable water resources of the Yamuna River up to Okhla, as allocated, before the appointed day, to the existing State of Uttar Pradesh under the Memorandum of Undertakings, dated the 12th May, 1994 shall be further allocated between the successor States by mutual agreement within a period of two years, failing which, the Central Government shall, by order, determine the allocation of such water resource between the successor States within a further period of one year.

(2) The State of Uttaranchal shall, on the appointed day, be inducted as a member of the Upper Yamuna Board constituted for the implementation of the Memorandum of Undertaking referred to in sub-section (1).

## PART X

## LEGAL AND MISCELLANEOUS PROVISIONS

**85.** On and from the appointed day, in section 15 of the States Reorganisation Act, 1956, in clause (b), for the words "Uttar Pradesh and Madhya Pradesh", the words "Uttar Pradesh, Uttarakhand and Madhya Pradesh" shall be substituted.

Amendment of  
section 15 of  
Act 37 of  
1956.

U.P. Act  
I of 1961.

**86.** The provisions of Part II shall not be deemed to have affected any change in the territories to which the Uttar Pradesh Imposition of Ceiling of Land Holding Act, 1961 and any other law in force immediately before the appointed day, extends or applies, and territorial references in any such law to the State of Uttar Pradesh shall, until otherwise provided by a competent Legislature or other competent authority be construed as meaning the territories within the existing State of Uttar Pradesh before the appointed day.

Territorial  
extent of laws.

**87.** For the purpose of facilitating the application in relation to the State of Uttar Pradesh or Uttarakhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Power to adapt  
laws.

*Explanation.*—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its application to a State, the State Government.

**88.** Notwithstanding that no provision or insufficient provision has been made under section 87 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Uttar Pradesh or Uttarakhand, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to  
construe laws.

**89.** The Government of the State of Uttarakhand, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Power to name  
authorities,  
etc., for  
exercising  
statutory  
functions.

**90.** Where, immediately before the appointed day, the existing State of Uttar Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Uttar Pradesh and Uttarakhand under this Act, the State of Uttar Pradesh or Uttarakhand which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Uttar Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly.

Legal  
proceedings.

**91. (1)** Every proceeding pending immediately before the appointed day before a court (other than High Court), tribunal, authority or officer in any area which on that day falls within the State of Uttar Pradesh shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of Uttarakhand State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

Transfer of  
pending  
proceedings.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1) it shall be referred to the High Court at Allahabad and the decision of that High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding court, tribunal, authority or officer" in the State of Uttaranchal means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Uttar Pradesh to be the corresponding court, tribunal, authority or officer.

Right of  
pleaders to  
practise in  
certain cases.

92. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Uttar Pradesh shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Uttaranchal.

Effect of  
provisions of  
the Act  
inconsistent  
with other  
laws.

93. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to  
remove  
difficulties.

94. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

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

(2) Every order made under this section shall be laid before each House of Parliament.

## THE FIRST SCHEDULE

(See section 8)

(i) Of the eleven sitting members whose term of office will expire in November, 2002, namely, Shri Narendra Mohan, Shri Raj Nath Singh, Shri Chaudhary Chunni Lal, Shri Devi Prasad Singh, Shri Manohar Kant Dhyani, Shri Amar Singh, Shri Mohammad Azam Khan, Shri R.N. Arya, Shri Gandhi Azad, Shri Akilesh Das and Shri Balwant Singh Ramoowalia, Shri Manohar Kant Dhyani shall be deemed to have been elected to fill one seat out of the three seats allocated in the Council of States to the State of Uttaranchal and the other ten sitting members shall be deemed to have been elected to fill ten of the seats allotted to the State of Uttar Pradesh.

(ii) Of the twelve sitting members whose term of office will expire in July, 2004, namely, Shri Arun Shourie, Shri T.N. Chaturvedi, Shri B.P. Singhal, Shri Dharam Pal Yadav, Shri Deena Nath Mishra, Shri Ram Gopal Yadav, Shri Kanshi Ram, Shri Sangh Priya Gautam, Shri Munavvar Hasan, Shri Khan Ghufran Zahidi, Shri Syed Akhter Hasan Rizvi, Shri Rama Shanker Kaushik, such one as the Chairman of the Council of States may determine by drawing lot shall be deemed to have been elected to fill one of the seats allotted to the State of Uttaranchal and the other eleven sitting members shall be deemed to have been elected to fill eleven of the seats allotted to the State of Uttar Pradesh.

(iii) Of the eleven sitting Members representing the State of Uttar Pradesh whose term of office will expire on 2nd April, 2006, such one as the Chairman of the Council of States may determine by drawing lot shall be deemed to have been elected to fill one of the seats allotted to the State of Uttaranchal.

## THE SECOND SCHEDULE

(See section 10)

## AMENDMENTS TO THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1976

In the Delimitation of Parliamentary and Assembly Constituency Order, 1976,—

## 1. In Schedule XXII,—

## (i) in PART A—Parliamentary Constituencies,—

(a) serial numbers 1, 2, 3, 4 and 85 and entries relating thereto shall be omitted;

(b) in serial number 12 at the end, the following figures and word shall be inserted, namely:—

"56—Baheri";

(c) in serial number 82 at the end, the following figures and word shall be inserted, namely:—

"416—Deoband";

(d) in serial number 84 at the end, the following figures, brackets and letters shall be inserted, namely:—

"415—Nagal (SC)";

(ii) in PART B—Assembly Constituencies, serial numbers 1 to 16 (both inclusive) and 420 to 425 (both inclusive) and the entries relating thereto shall be omitted.

## 2. After Schedule XXII, the following shall be inserted, namely:—

## “SCHEDULE XXIIA

## UTTARANCHAL

## PART A.—Parliamentary Constituencies

## Serial No., Name and extent in terms of assembly Constituencies

1. Tehri Garhwal.— 1-Uttar Kashi (SC), 2-Tehri, 3-Deoprayag, 4-Mussoorie and 5-Chakrata (ST).
2. Garhwal.—6-Lansdowne, 7-Pauri, 8-Karanprayag, 9-Badri-Kedar and 10-Dehra Dun.
3. Almora.—11-Didihat, 12-Pithoragarh, 13-Almora, 14-Bageshwar (SC) and 15-Ranikhet.
4. Naini Tal.—16-Naini Tal, 17-Khatima (SC), 18-Haldwani and 19-Kashipur.
5. Hardwar (SC).—20-Roorkee, 21-Lhaksar and 22-Hardwar.”.

## PART B.—Assembly Constituency

## Serial No., Name and extent of Constituency

The detailed particulars regarding the name and extent of the Constituencies in each of the districts in the State of Uttaranchal shall be as delimited by the Election Commission.”.

## THE THIRD SCHEDULE

(See section 19)

MODIFICATION IN THE DELIMITATION OF COUNCIL CONSTITUENCIES  
(UTTAR PRADESH) ORDER, 1951

For the table appended to the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951, the following table shall be substituted, namely: —

“TABLE

Name of Constituency	Extent of Constituency	Number of Seats
1	2	3
<b>Graduates Constituencies</b>		
1. Bareilly-Moradabad Division Graduates	Bareilly, Pilibhit, Shahjahanpur, Badaun, Rampur, Moradabad, Jyotibaphule Nagar and Bijnor districts.	1
2. Lucknow Division Graduates	Lucknow, Hardoi, Kheri, Sitapur, Barabanki, Rae Bareli and Pratapgarh districts.	1
3. Gorakhpur-Faizabad Division Graduates	Bahraich, Shravasti, Gonda, Balrampur, Basti, Siddharthnagar, Santkabir Nagar, Gorakhpur, Maharajganj, Deoria, Kushinagar, Azamgarh, Mau, Sultanpur, Faizabad and Ambedkarnagar districts.	1
4. Varanasi Division Graduates	Ballia, Gazipur, Jaunpur, Varanasi, Chandauli, Sant Ravidas Nagar, Mirzapur and Sonbhadra districts.	1
5. Allahabad-Jhansi Division Graduates	Allahabad, Kaushambi, Fatehpur, Banda, Chitrakoot, Hamirpur, Mahoba, Jalaun, Jhansi and Lalitpur districts.	1
6. Kanpur Graduates	Kanpur Nagar and Kanpur Dehat and Unnao Districts.	1
7. Agra Division Graduates	Agra, Firozabad, Mathura, Aligarh, Hathras, Etah, Mainpuri, Etawah, Kannauj, Auraiya and Farrukhabad districts.	1
8. Meerut Division Graduates	Bulandshahar, Ghaziabad, Gautambuddhnagar, Meerut Bagpat, Muzaffarnagar and Saharanpur districts.	1
<b>Teachers' Constituencies</b>		
1. Bareilly-Mordabad Division Teachers	Bareilly, Pilibhit, Shahjahanpur, Badaun, Rampur, Mordabad, Jyotibaphule Nagar, and Bijnor districts.	1

1	2	3
2. Lucknow Division Teachers	Lucknow, Hardoi, Kheri, Sitapur, Barabanki, Rae Bareli and Pratapgarh districts.	1
3. Gorakhpur-Faizabad Division Teachers	Bahraich, Shravasti, Gonda, Balrampur, Basti, Siddarthnagar, Sankhabir Nagar, Gorakhpur, Maharajganj, Deoria, Kushinagar, Azamgarh, Mau, Sultanpur, Faizabad and Ambedkarnagar districts.	1
4. Varanasi Division Teachers	Ballia, Gazipur, Jaunpur, Varanasi, Chandauli, Sant Ravidas Nagar, Mirzapur and Sonbhadra districts.	1
5. Allahabad-Jhansi Division Teachers	Allahabad, Kaushambi, Fathepur, Banda, Chitrakoot, Hamirpur, Mahoba, Jalaun, Jhansi and Lalitpur districts.	1
6. Kanpur Teachers	Kanpur Nagar and Kanpur Dehat and Unnao districts.	1
7. Agra Division Teachers	Agra, Firozabad, Mathura, Aligarh, Hathras, Etah, Mainpuri, Etawah, Kannauj, Auraiya and Farrukhabad districts.	1
8. Meerut Division Teachers	Bulandshahar, Ghaziabad, Gautambuddhnagar, Bagpat, Meerut, Muzaffarnagar and Saharanpur districts.	1

#### Local Authorities' Constituencies

1. Mordabad -Bijnor Local Authorities	Mordabad, Jyotibaphule Nagar, and Bijnor districts.	1
2. Rampur-Bareilly Local Authorities	Rampur and Bareilly districts.	1
3. Badaun Local Authorities	Badaun district.	1
4. Pilibhit Shahjahanpur Local Authorities	Pilibhit and Shahjahanpur districts.	1
5. Hardoi Local Authorities	Hardoi district.	1
6. Kheri Local Authorities	Kheri district.	1
7. Sitapur Local Authorities	Sitapur district.	1
8. Lucknow-Unnao Local Authorities	Lucknow and Unnao districts.	1
9. Rae Bareli Local Authorities	Rae Bareli district.	1
10. Pratapgarh Local Authorities	Pratapgarh district.	1
11. Sultanpur Local Authorities	Sultanpur district	1

1	2	3
12. Barabanki Local Authorities	Barabanki district.	1
13. Bahraich Local Authorities	Bahraich and Shravasti districts.	1
14. Gonda Local Authorities	Gonda district.	1
15. Faizabad Local authorities	Faizabad and Ambedkarnagar districts.	1
16. Basti-Siddharth Nagar Local Authorities	Basti, Santkabir Nagar and Siddharthnagar districts.	1
17. Gorakhpur-Mahrajganj Local Authorities	Gorakhpur and Mahrajganj districts.	1
18. Deoria Local Authorities	Deoria and Kushinagar districts.	1
19. Azamgarh-Mau Local Authorities	Azamgarh and Mau districts.	1
20. Ballia Local Authorities	Ballia district.	1
21. Ghazipur Local Authorities	Ghazipur district.	1
22. Jaunpur Local Authorities	Jaunpur district.	1
23. Varanasi Local Authorities	Varanasi, Chandauli and Sant Ravidasnagar districts.	1
24. Mirzapur-Sonbhadra Local Authorities	Mirzapur and Sonbhadra districts.	1
25. Allahabad Local Authorities	Allahabad and Kaushambi districts.	1
26. Banda-Hamirpur Local Authorities	Banda, Chitrakoot, Hamirpur and Mahoba districts.	1
27. Jhansi-Jalaun-Lalitpur Local Authorities	Jalaun, Jhansi and Lalitpur districts.	1
28. Kanpur-Fatehpur Local Authorities	Kanpur Nagar and Kanpur Dehat and Fatehpur districts.	1
29. Etawah-Farrukhabad Local Authorities	Etawah, Farrukhabad, Kannauj and Auraiya districts.	1
30. Agra-Firozabad Local Authorities	Agra and Firozabad districts.	1
31. Mathura-Etah-Mainpuri Local Authorities	Mathura, Etah and Mainpuri districts.	2
32. Aligarh Local Authorities	Aligarh and Hathras districts.	1
33. Bulandshahar Local Authorities	Bulandshahar and Gautambuddhnagar districts.	1
34. Meerut-Ghaziabad Local Authorities	Meerut, Bagpat and Ghaziabad districts.	1
35. Muzaffarnagar-Saharanpur Local Authorities	Muzaffarnagar and Saharanpur districts.	1".

## THE FOURTH SCHEDULE

(See section 20)

List of members of the Legislative Council of Uttar Pradesh who shall cease to be such members on the appointed day and deemed to be the members of the Provisional Legislative Assembly:—

1. Shri Nitya Nand Swami.
2. Dr. (Smt.) Indira Hridayesh.
3. Shri Narayan Singh Rana.
4. Shri Tirath Singh Rawat.
5. Shri Sri Prakash Pant.
6. Shri Devendra Shastri.
7. Smt. Nirupama Gaur.
8. Shri Bhagat Singh Koshiyari.
9. Shri Isham Singh.

## THE FIFTH SCHEDULE

(See section 24)

## AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950,—

(a) in paragraph 2, for the figures "XXIII", the figures "XXIV" shall be substituted;

(b) in the Schedule, after Part XXIII, the following shall be inserted, namely:—

**"PART XXIV—*Uttaranchal*"**

1. Agariya
2. Badhik
3. Badi
4. Baheliya
5. Baiga
6. Baiswar
7. Bajaniya
8. Bajgi
9. Balhar
10. Balai
11. Balmiki
12. Bangali
13. Banmanus
14. Bansphor
15. Barwar
16. Basor
17. Bawariya
18. Beldar
19. Beriya
20. Bhantu
21. Bhuiya
22. Bhuyiar
23. Boria
24. Chamar, Dhusia, Jhusia, Jatava
25. Chero
26. Dabgar
27. Dhangular
28. Dhanuk
29. Dharkar
30. Dhobi
31. Dom
32. Domar
33. Dusadh
34. Dharmi
35. Dhariya
36. Gond
37. Gwal
38. Habura
39. Hari
40. Hela
41. Kalabaz
42. Kanjar
43. Kapariya

- 44. Karwal
- 45. Kharaita
- 46. Kharwar (excluding Vanwasi)
- 47. Khatik
- 48. Kharot
- 49. Kol
- 50. Kori
- 51. Korwa
- 52. Lalbegi
- 53. Majhwar
- 54. Mazhabi
- 55. Musahar
- 56. Nat
- 57. Pankha
- 58. Parahiya
- 59. Pasi, Tarmali
- 60. Patari
- 61. Sahariya
- 62. Sanauriya
- 63. Sansiya
- 64. Shilpkar
- 65. Turaiha.".

## THE SIXTH SCHEDULE

(See section 25)

## AMENDMENTS TO THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950,—

- (1) in paragraph 2, for the figures "XX", the figures "XXI" shall be substituted;
- (2) in the Schedule, after Part XX, the following Part shall be inserted, namely:—

**"PART XXI.—*Uttaranchal***

1. Bhotia.
2. Buksa.
3. Jannsari.
4. Raji.
5. Tharu.”.

## THE SEVENTH SCHEDULE

(See section 47)

## LIST OF FUNDS

1. Depreciation Reserve Fund—Irrigation.
2. Depreciation Reserve Fund—Government Press.
3. Depreciation Reserve Fund—Precision Instrument Factory.
4. Rural Development Fund.
5. Famine Relief Fund.
6. Sugar Research and Labour Housing Management Fund.
7. Zamindari Abolition Fund.
8. U. P. Road Fund.
9. Hospital Fund.
10. Teachers Gratuity Fund.
11. State Bridge Fund.
12. General Insurance Fund.
13. Nazul Fund.
14. State Co-operative Development Fund.
15. Agriculture Credit Relief and Security Fund.
16. Farmer Relief Fund.
17. Depreciation Reserve Fund-Power.
18. Contingency Reserve Fund-Power.
19. Sugar Factory Rehabilitation, Modernisation and Establishment Fund.
20. Cane Research and Development Fund.
21. Consolidated Reduction on Debt Fund for State Development Loan and Zamindari  
Abolition and Compensation Bond.
22. Police House Building Fund.
23. Fourth Class House Building Fund.
24. Government Servant Housing Fund.
25. Balanced Area Development Fund.
26. U.P. Youth Welfare Fund.
27. U.P. Student Welfare Fund.
28. Language Fund.
29. Police Welfare Fund.
30. Acharya Narendra Deo Fund.
31. Calamity Relief Fund.
32. Purvanchal Development Fund.
33. Bundelkhand Development Fund.
34. Loan Assistance Fund for payment of Cane Prices.
35. Relief for Productivity Research and Modernisation of Sick Industrial Units.
36. Secretariat Fund.
37. Vidhayak Nidhi.

## THE EIGHTH SCHEDULE

(See section 54)

## APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of the successor States shall, in respect of pensions granted before the appointed day by the existing State of Uttar Pradesh, pay the pensions drawn in its treasuries.
2. Subject to the said adjustments, the liability in respect of pensions of officers serving in connection with the affairs of the existing State of Uttar Pradesh who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Uttar Pradesh.
3. There shall be computed, in respect of the period commencing on the appointed day and ending on such date after the appointed day, as may be fixed by the Central Government and in respect of each subsequent financial year, the total payments made in all the successor States in respect of pensions referred to in paragraphs 1 and 2. The total representing the liability of the existing State of Uttar Pradesh in respect of pensions shall be apportioned between the successor States in the population ratio and any successor State paying the State paying more than its due share shall be reimbursed the excess amount by the successor State or State paying less.
4. The liability of the existing State of Uttar Pradesh in respect of pensions granted before the appointed day and drawn in any area outside the territories of the existing State shall be the liability of the State of Uttar Pradesh subject to adjustments to be made in accordance with paragraph 3 as if such pensions had been drawn in any treasury in the State of Uttar Pradesh under paragraph 1.
5. (1) The liability in respect of the pension of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Uttar Pradesh and retiring on or after that day, shall be that of the successor State granting him the pension; but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Uttar Pradesh shall be allocated between the successor States in the population ratio, and the Government granting the pension shall be entitled to receive from each of the other successor States its share of this liability.  
(2) If any such officer was serving after the appointed day in connection with the affairs of more than one successor State other than the one granting the pension shall reimburse to the Government by which the pension is granted an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed day under the reimbursing State bears to the total qualifying service of such officer after the appointed day reckoned for the purposes of pension.
6. Any reference in this Schedule to a pension shall be construed as including a reference to the commuted value of the pension.

**THE NINTH SCHEDULE**  
**(See section 66)**  
**LIST OF GOVERNMENT COMPANIES**

S. No.	Name of Government Company	Address
1.	Uttar Pradesh Bhumi Sudhar Nigam Ltd.	Bhumitra Bhawan, 19-B, Vibhuti Khand, Gomti Nagar, Lucknow.
2.	Uttar Pradesh Agro Industrial Corporation Ltd.	22, Vidhan Sabha Marg, Lucknow.
3.	Uttar Pradesh Alpasankhyak Vittiya Nigam Ltd.	7th Floor, Jawahar Bhawan, Lucknow.
4.	Uttar Pradesh Electronic Corporation Ltd.	Nav Chetna Kendra, Ashok Marg, Lucknow.
5.	Uttar Pradesh Jal Vidyut Nigam Ltd.	12th Floor, Vikas Deep, Station Road, Lucknow.
6.	Uttar Pradesh Rajya Vidyut Utpadan Nigam Ltd.	4-B, Gokhle Marg, Lucknow.
7.	Uttar Pradesh Leather Development and Marketing Corporation Ltd.	16/58-A, Sadar Bhati Road, Agra.
8.	Uttar Pradesh Export Corporation Ltd.	2, Rana Pratap Marg, Lucknow.
9.	Uttar Pradesh State Food and Essential Commodities Corporation Ltd.	17, Gokhle Marg, Lucknow.
10.	Uttar Pradesh Small Industries Corporation Ltd.	110, Industrial Estate, Fazalganj, Kanpur.
11.	Uttar Pradesh State Handloom Corporation Ltd.	Hathkargha Bhawan, G.T. Road, Kanpur.
12.	Uttar Pradesh Police Awas Nigam Ltd.	A-81, Vijay Khand-II, Gomti Nagar, Lucknow.
13.	Provincial Industrial Investment Corporation of Uttar Pradesh (PICUP) Ltd.	PICUP Bhawan, Gomti Nagar, Lucknow.
14.	The Indian Turpentine and Rosin Company Ltd.	Culucttarbuckganj, Bareilly.
15.	Uttar Pradesh State Cement Corporation Ltd.	Churk, Sonbhadra.
16.	Uttar Pradesh State Mineral Development Corporation Ltd.	Kapurthal Complex, Aliganj, Lucknow.
17.	Uttar Pradesh State Taxtile Corporation Ltd.	Vastral Bhawan, Sharda Nagar, Kanpur.
18.	Uttar Pradesh State Industrial Development Corporation Ltd.	A-1/4, Lakhapur, P.O. Box No. 1150, Kanpur.
19.	Uttar Pradesh Project and Tubewells Corporation Ltd.	Left Bank, Gomti Bairaj, Gomti Nagar, Lucknow.
20.	Uttar Pradesh Mahila Kalyan Nigam Ltd.	B-2/5, Vikas Khand, Gomti Nagar, Lucknow.
21.	Uttar Pradesh Matsya Vikas Nigam Ltd.	4/13-14, Vivek Khand, Gomti Nagar, Lucknow.

S. No.	Name of Government Company	Address
22.	Uttar Pradesh Panchayati Raj Vitta Nigam Ltd.	C-232, Niralanagar, Lucknow.
23.	Uttar Pradesh Pashudhan Udyog Nigam Ltd.	Central Dairy Farm, Aligarh.
24.	Uttar Pradesh Pichhara Varg Vitta Evam Vikas Nigam Ltd.	PCF Building, 4th Floor, Station Road, Lucknow.
25.	Uttar Pradesh Poultry and Livestock Specialities Ltd.	Campus Animal Husbandry, Badshahbagh, Lucknow.
26.	Uttar Pradesh Development Systems Corporation Ltd.	9, Sarojini Naidu Marg, Lucknow.
27.	Uttar Pradesh State Bridge Corporation Ltd.	16, Madan Mohan Malviya Marg, Lucknow.
28.	Uttar Pradesh Rajkiya Nirman Nigam Ltd.	Vishveshwariya Bhawan, Gomati Nagar, Lucknow.
29.	Uttar Pradesh Anusuchit Jati/Janjati Vikas Nigam Ltd.	B-912, Sector C, Mahanagar, Lucknow.
30.	Uttar Pradesh Samaj Kalyan Nirman Nigam Ltd.	Lekhraj Market, Indira Nagar, Lucknow.
31.	Uttar Pradesh Bhootpurva Sainik Kalyan Nigam Ltd.	54-x, Jopling Road, Lucknow.
32.	Uttar Pradesh (Madhya) Ganna Beej Vikas Nigam Ltd.	New Berry Road, Near Deputy Cane Commissioner's Office, Lucknow.
33.	Uttar Pradesh (Paschim) Ganna Beej Vikas Nigam Ltd.	Circular Road, Near Ganna Kisan Sansthan, Muzaffarnagar.
34.	Uttar Pradesh (Poorva) Ganna Beej Vikas Nigam Ltd.	HIG-VI, Acharya Ram Chandra Shukla Nagar, Deoria.
35.	Uttar Pradesh (Rohilkhand Terai) Ganna Beej Vikas Nigam Ltd.	26-27, B.D.A. Colony, Shahamatganj, Barielly.
36.	Uttar Pradesh State Sugar Corporation Ltd.	Vipin Khand, Near Taj Hotel, Gomati Nagar, Lucknow.
37.	Uttar Pradesh Tourism Corporation Ltd.	Chitrahar-3, Nawal Kishore Road, Lucknow.
38.	Garhwal Mandal Vikas Nigam Ltd.	74, Rajpur Road, Dehradun.
39.	Kumaon Mandal Vikas Nigam Ltd.	Oak Park House, Malli Tal, Nainital.
40.	Uttar Pradesh Hill Electronics Corporation Ltd.	B-2/140, Vishal Khand Gomati Nagar, Lucknow.
41.	Uttar Pradesh Waqf Vikas Nigam Ltd.	First Floor, 118, Jawahar Bhawan, Lucknow.
42.	Uttar Pradesh Seed and Tarai Development Corporation Ltd.	Haldi, Pantnagar, Udhamsinghnagar.
43.	Kumaon Anusuchit Janjati Vikas Nigam Ltd.	Raj Mahal Hotel Campus, Malli Tal, Nainital.
44.	Garhwal Anusuchit Janjati Vikas Nigam Ltd.	74, Rajpur Road, Dehradun.

## THE TENTH SCHEDULE

(See section 71)

## CONTINUANCE OF FACILITIES IN CERTAIN STATE INSTITUTIONS

*List of Training Institutions/Centres*

1. Uttar Pradesh Academy of Administration, Nainital
2. Uttar Pradesh State Observatory, Nainital
3. Institute of Management Development Uttar Pradesh, Lucknow
4. Judicial Training and Research Institute, Lucknow
5. Dr. B. R. Ambedkar Police Academy, Moradabad
6. Police Training College-II, Moradabad
7. Police Training College-III, Gorakhpur
8. Armed Training Centre, Sitapur
9. Police Training College, Moradabad
10. Police Training College, Gorakhpur
11. Recruit Training Centre, Chunai, Mirzapur
12. Police Training College, Unnao
13. Sampurnanand Prison Training Institute, Lucknow
14. Secretariat Training and Management Institute, Lucknow
15. Raja Todarmal Survey and Land Records Institute, Hardoi
16. Land Consolidation Training College, Ayodhya, Faizabad
17. State Engineers' Training Institute, Kalagarh
18. U. P. Water and Land Management Institute, Lucknow
19. Institute of Financial Management Training and Research, Lucknow
20. Cooperative and Panchayat Audit Training Centre, Ayodhya, Faizabad
21. Local Funds Accounts and Audit Training Institute, Allahabad
22. Trade Tax Officers' Training Institute, Lucknow
23. State Electricity Board Training Institute, Dehradun
24. U.P. State Electricity Board Staff College, Dehradun
25. Thermal Power Training Institute, UPSEB, Obra, Sonbhadra
26. Central Civil Defence Training Institute, Lucknow
27. Deen Dayal Upadhyay State Institute of Rural Development, Bakshi Ka Talab, Lucknow
28. Minor Irrigation Management and Water Management Training Institute, Bakshi Ka Talab, Lucknow
29. Smt. Indira Gandhi Cooperative Institute, Lucknow
30. Cooperative Training College, Dehradun
31. Agriculture Cooperative Staff Training Institute, Lucknow
32. Institute of Cooperative, Corporate Management Research and Training, Indira Nagar, Lucknow
33. U. P. Cane Development Institute, Lucknow

34. Uttar Pradesh State Transport Corporation Training Institute, Kanpur
35. Uttar Pradesh State Education Research and Training Board, Allahabad
36. Scheduled Castes and Scheduled Tribes Research and Training Institute, Lucknow
37. Hotel Management and Catering Institute, Dehradun
38. Research, Development and Training Institute, Kanpur
39. Uttar Pradesh Excise Training Institute, Rae Bareili
40. Central Workers Education Board, Kanpur
41. State Institute of Health and Family Welfare, Indira Nagar, Lucknow
42. Office of the Inspector of Officers, U.P. Allahabad
43. State Planning Institute, Training Division, Kalakankar House, Old Hyderabad, Lucknow
44. Institute of Entrepreneurship Development, Lucknow
45. Hotel Management and Catering Institute, Almora
46. Moti Lal Nehru Regional Engineering College, Allahabad
47. State Architecture College, Lucknow
48. Central Textile Institute, Kanpur
49. Institute of Engineering and Rural Technology, Allahabad
50. Northern Regional Institute of Printing Technology, Allahabad
51. Khadi and Gramodyog Board, 8, Tilak Marg, Lucknow
52. Dr. Ambedkar Institute of Technology for Handicapped, Kanpur
53. Government Leather Institute, Agra
54. Government Leather Institute, Kanpur
55. Joint Entrance Examination Council, Lucknow

*Jr Added by Notification no. 010-S.O. 153 (E), dt. 20.2.201 (w.e.f. 20.2.200)*

# THE BIHAR REORGANISATION ACT, 2000

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## THE BIHAR REORGANISATION ACT, 2000

No. 30 OF 2000

[25th August, 2000.]

An Act to provide for the reorganisation of the existing State of Bihar and for matters connected therewith.

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

### PART I

#### PRELIMINARY

1. This Act may be called the Bihar Reorganisation Act, 2000.

Short title.

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

Definitions.

(a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(b) "article" means an article of the Constitution;

(c) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950;

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

43 of 1950.

\* 15-11-2000: Vide application no. S.O. 829 (E), dt. 14-9-2000

(e) "existing State of Bihar" means the State of Bihar as existing immediately before the appointed day;

(f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Bihar;

(g) "notified order" means an order published in the Official Gazette;

(h) "population ratio", in relation to the States of Bihar and Jharkhand, means the ratio of 645.30:218.44;

(i) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Bihar, means a person who immediately before the appointed day, is a member of that House;

(j) "successor State", in relation to the existing State of Bihar, means the State of Bihar or Jharkhand;

(k) "transferred territory" means the territory which on the appointed day is transferred from the existing State of Bihar to the State of Jharkhand;

(l) "treasury" includes a sub-treasury; and

(m) any reference to a district, tahsil or other territorial division of the existing State of Bihar shall be construed as a reference to the area comprised within that territorial division on the appointed day.

## PART II

### REORGANISATION OF THE STATE OF BIHAR

**Formation of  
Jharkhand  
State.**

3. On and from the appointed day, there shall be formed a new State to be known as the State of Jharkhand comprising the following territories of the existing State of Bihar, namely:—

Bokaro, Chatra, Deogarh, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribagh, Kodarma, Lohardaga, Pakur, Palamau, Ranchi, Sahebganj, Singhbhum (East) and Singhbhum (West) districts;

and thereupon the said territories shall cease to form part of the existing State of Bihar.

**State of Bihar  
and territorial  
divisions  
thereof.**

4. On and from the appointed day, the State of Bihar shall comprise the territories of the existing State of Bihar other than those specified in section 3.

**Amendment of  
the First  
Schedule to  
the Constitu-  
tion.**

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. THE STATES",—

(a) in the paragraph relating to the territories of the State of Bihar, the following shall be added at the end, namely:—

"and the territories specified in section 3 of the Bihar Reorganisation Act, 2000";

(b) after entry 27, the following entry shall be inserted, namely:—

"28. Jharkhand: The territories specified in section 3 of the Bihar Reorganisation Act, 2000".

**Saving powers  
of State  
Governments.**

6. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Bihar or Jharkhand to alter, after the appointed day, the name, area or boundaries of any district or other territorial division in the State.

## PART. III

## REPRESENTATION IN THE LEGISLATURES

*The Council of States*

**7.** On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

Amendment of  
the Fourth  
Schedule to the  
Constitution.

- (a) entries 4 to 29 shall be renumbered as entries 5 to 30 respectively;
- (b) in entry 3, for the figures "22" the figures "16" shall be substituted;
- (c) after entry 3, the following entry shall be inserted, namely:—

"4. Jharkhand..... 6".

**8. (1)** On and from the appointed day, the twenty-two sitting members of the Council of States representing the existing State of Bihar shall be deemed to have been elected to fill the seats allotted to the States of Bihar and Jharkhand, as specified in the First Schedule to this Act.

Allocation of  
sitting  
members.

- (2) The term of office of such sitting members shall remain unaltered.

*The House of the People*

43 of 1950.

**9.** On and from the appointed day, there shall be allocated 40 seats to the successor State of Bihar, and 14 to the successor State of Jharkhand, in the House of the People and in the First Schedule to the Representation of the People Act, 1950, under heading "I. STATES":—

Representa-  
tion in the  
House of the  
People.

- (a) for entry 4, the following entry shall be substituted, namely:—

"4. Bihar 53 7 5 40 7 ..";

- (b) entries 10 to 25 shall be renumbered as entries 11 to 26 respectively;

- (c) after entry 9, the following entry shall be inserted, namely:—

"10. Jharkhand .. .. .. 14 1 5".

**10.** On and from the appointed day, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended as directed in the Second Schedule to this Act.

Delimitation of  
Parliamentary  
and Assembly  
Constituencies.

Provision as  
to sitting  
members.

**11. (1)** Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of section 10, stands allotted, with or without alteration of boundaries, to the successor State of Bihar or Jharkhand, shall be deemed to have been elected to the House of the People by that constituency as so allotted.

- (2) The term of office of such sitting members shall remain unaltered.

*The Legislative Assembly*

43 of 1950.

**12. (1)** The number of seats as on the appointed day in the Legislative Assemblies of the States of Bihar and Jharkhand shall be two hundred and forty-three and eighty-one respectively.

Provisions as  
to Legislative  
Assemblies.

**(2)** In the Second Schedule to the Representation of the People Act, 1950, under heading "I. States":—

- (a) for entry 4, the following entry shall be substituted, namely:—

"4. Bihar 318 45 29 243 39 ..";

- (b) entries 11 to 27 shall be renumbered as entries 12 to 28 respectively;

- (c) after entry 10, the following entry shall be inserted, namely:—

"11. Jharkhand .. .. .. 81 9 28".

Allocation of  
sitting  
members.

**13.** (1) Every sitting member of the Legislative Assembly of the existing State of Bihar elected to fill a seat in that Assembly from a constituency which on the appointed day by virtue of the provisions of section 10 stands allotted, with or without alteration of boundaries, to the State of Jharkhand shall, on and from that day, cease to be a member of the Legislative Assembly of Bihar and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Jharkhand from that constituency as so allotted.

(2) All other sitting members of the Legislative Assembly of the existing State of Bihar shall continue to be members of the Legislative Assembly of that State and any such sitting member representing a constituency the extent, or the name and extent of which are altered by virtue of the provisions of section 10 shall be deemed to have been elected to the Legislative Assembly of Bihar by that constituency as so altered.

(3) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assemblies of Bihar and Jharkhand shall be deemed to be duly constituted on the appointed day.

(4) The sitting member of the Legislative Assembly of the existing State of Bihar nominated to that Assembly under article 333 to represent the Anglo-Indian community shall be deemed to have been nominated to represent the said community in the Legislative Assembly of Jharkhand under that article.

Duration of  
Legislative  
Assemblies.

**14.** The period of five years referred to in clause (1) of article 172 shall, in the case of Legislative Assembly of the State of Bihar or Jharkhand be deemed to have commenced on the date on which it actually commenced in the case of Legislative Assembly of the existing State of Bihar.

Speaker and  
Deputy  
Speaker.

**15.** (1) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Bihar shall continue to be the Speaker and Deputy Speaker respectively of that Assembly on and from that day.

(2) As soon as may be after the appointed day, the Legislative Assembly of Jharkhand shall choose two members of that Assembly to be respectively Speaker and Deputy Speaker thereof and until they are so chosen, the duties of the office of Speaker shall be performed by such member of the Assembly as the Governor may appoint for the purpose.

Rules of  
procedure.

**16.** The rules of procedure and conduct of business of the Legislative Assembly of Bihar as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of Jharkhand, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

*The Legislative Council of Bihar*Legislative  
Council of  
Bihar.

**17.** On and from the day on which all the members specified in the Third Schedule retire, there shall be seventy-five seats in the Legislative Council of Bihar, and in the Third Schedule to the Representation of the People Act, 1950, for the existing entry 2, the following entry shall be substituted, namely:—

“2. Bihar	75	24	6	6	27	12”.
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Council  
constituencies.

**18.** On and from the appointed day, the Delimitation of Council Constituencies (Bihar) Order, 1951 shall stand amended as directed in the Fourth Schedule.

**19.** Notwithstanding anything contained in section 17, all sitting members of the Legislative Council of the existing State of Bihar, shall continue to be members of that Council till they retire on the expiration of their present term of office.

Provision as to  
sitting  
members.

**20.** The person who immediately before the appointed day is the Chairman or Deputy Chairman of the Legislative Council of the existing State of Bihar shall continue to be the Chairman or Deputy Chairman, as the case may be, on and from that day of that Council.

Chairman and  
Deputy  
Chairman.

*Delimitation of constituencies*

**21. (1)** For the purpose of giving effect to the provisions of section 12, the Election Commission shall determine in the manner hereinafter provided—

Delimitation of  
constituencies.

(a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States of Bihar and Jharkhand respectively, having regard to the relevant provisions of the Constitution;

(b) the assembly constituencies into which each State referred to in clause (a) shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes; and

(c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each successor States that may be necessary or expedient.

(2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:—

(a) all the constituencies shall be single-member constituencies;

(b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and conveniences to the public; and

(c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

(3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), associate with itself as associate members, five persons as the Central Government may by order specify, being persons who are members of the Legislative Assembly of the State or of the House of the People representing the State:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (3).

(5) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette;

and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the concerned State.

(7) The delimitation of constituencies in the States of Bihar and Jharkhand shall be determined on the basis of the published figures of the census taken in the year 1971.

**Power of the  
Election  
Commission to  
maintain  
Delimitation  
Orders up-to-  
date.**

22. (1) The Election Commission may, from time to time, by notification in the Official Gazette,—

(a) correct any printing mistakes in any order made under section 21 or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the concerned Legislative Assembly.

#### *Scheduled Castes and Scheduled Tribes*

**Amendment of  
the Scheduled  
Castes Order.**

23. On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the Fifth Schedule.

**Amendment of  
the Scheduled  
Tribes Order.**

24. On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Sixth Schedule.

**High Court of  
Jharkhand.**

25. (1) On and from the appointed day, there shall be a separate High Court for the State of Jharkhand (hereinafter referred to as the High Court of Jharkhand) and the High Court at Patna shall become the High Court for the State of Bihar (hereinafter referred to as the High Court at Patna).

(2) The principal seat of the High Court of Jharkhand shall be at such place as the President may, by notified order, appoint.

(3) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Jharkhand may sit at such other place or places in the State of Jharkhand other than its principal seat as the Chief Justice may, with the approval of the Governor of Jharkhand, appoint.

**Judges of High  
Court.**

26. (1) Such of the Judges of the High Court at Patna holding office immediately before the appointed day as may be determined by the President shall on that day cease to be Judges of the High Court at Patna and become Judges of the High Court of Jharkhand.

(2) The persons who by virtue of sub-section (1) become Judges of the High Court of Jharkhand shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the priority of their respective appointment as Judges of the High Court of Patna.

**Jurisdiction of  
High Court.**

27. The High Court of Jharkhand shall have, in respect of any part of the territories included in the State of Jharkhand, all such jurisdiction, powers and authorities as, under the law in force immediately before the appointed day, are exercisable in respect of that part of the said territories by the High Court at Patna.

25 of 1961.

**28. (1)** On and from the appointed day, in the Advocates Act, 1961, in section 3, in sub-section (1), in clause (a), after the words "Jammu and Kashmir", the word "Jharkhand" shall be inserted.

Special provision relating to Bar Council and Advocates.

25 of 1961.

**(2)** Any person who immediately before the appointed day is an advocate on the roll of the Bar Council of the existing State of Bihar may give his option in writing, within one year from the appointed day to the Bar Council of such existing State, to transfer his name on the roll of the Bar Council of Jharkhand and notwithstanding anything contained in the Advocates Act, 1961 and the rules made thereunder, on such option so given his name shall be deemed to have been transferred on the roll of the Bar Council of Jharkhand with effect from the date of the option so given for the purposes of the said Act and the rules made thereunder.

**(3)** The person other than the advocates who are entitled immediately before the appointed day, to practise in the High Court at Patna or any subordinate court thereof shall, on and after the appointed day, be recognised as such persons entitled also to practise in the High Court of Jharkhand or any subordinate court thereof, as the case may be.

**(4)** The right of audience in the High Court of Jharkhand shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court at Patna.

**29.** Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Patna shall, with the necessary modifications, apply in relation to the High Court of Jharkhand, and accordingly, the High Court of Jharkhand shall have all such powers to make rules and orders with respect to practice and procedure as immediately before the appointed day exercisable by the High Court at Patna:

Practice and procedure in common High Court.

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court at Patna shall, until varied or revoked by rules or orders made by the High Court of Jharkhand, apply with the necessary modifications in relation to practice and procedure in the High Court of Jharkhand as if made by that court.

**30.** The law in force immediately before the appointed day with respect to the custody of the seal of the High Court at Patna shall with the necessary modifications, apply with respect to the custody of the seal of the High Court of Jharkhand.

Custody of seal of High Court.

**31.** The law in force immediately before the appointed day with respect to the form of writs and special processes used, issued or awarded by the High Court at Patna shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Jharkhand.

Form of writs and other processes.

**32.** The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and division courts of the High Court at Patna with respect to all matters ancillary to the exercise of those powers shall, with the necessary modification, apply in relation to the High Court of Jharkhand.

Powers of Judges.

**33.** The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court at Patna and the Judges and division courts thereof shall, with the necessary modification, apply in relation to the High Court of Jharkhand.

Procedure as to appeals to Supreme Court.

**34. (1)** Except as hereinafter provided, the High Court at Patna shall, as from the appointed day, have no jurisdiction in respect of the transferred territory.

Transfer of proceedings from High Court at Patna to High Court of Jharkhand.

**(2)** Such proceedings pending in the High Court at Patna immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of the High Court, having regard to the places of accrual of the cause of action and other circumstances, to be proceedings which are ought to be heard and decided by the High

Court of Jharkhand shall as soon as may be after such certification, be transferred to the High Court of Jharkhand.

(3) Notwithstanding anything contained in sub-sections (1) and (2) of this section or in section 27, but save as hereinafter provided, the High Court at Patna shall have, and the High Court of Jharkhand shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Patna before the appointed day:

Provided that if after such proceedings have been entertained by the High Court at Patna, it appears to the Chief Justice of the High Court that they ought to be transferred to the High Court of Jharkhand, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

**(4) Any order made by the High Court at Patna—**

(a) before the appointed day, in any proceeding to the High Court of Jharkhand by virtue of sub-section (2), or

(b) in any proceedings with respect to which the High Court at Patna retains jurisdiction by virtue of sub-section (3) shall for all purposes have effect, not only as an order of the High Court at Patna, but also as an order made by the High Court of Jharkhand.

**35. Any person, who immediately before the appointed day, is an advocate entitled to practice or an attorney entitled to act, in the High Court at Patna and so authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Jharkhand under section 34 shall have the right to appear or to act, as the case may be, in the High Court of Jharkhand in relation to those proceedings.**

**Interpretation.**

**36. For the purposes of section 34—**

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, application for review, petitions for revision and petitions for writs;

(b) references to a High Court shall be construed as including references to a Judge or division court thereof, and reference to order made by a court or the Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

**Saving.**

**37. Nothing in this Part shall affect the application to the High Court of Jharkhand of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.**

## PART V

### AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

**Authorisation of expenditure of Jharkhand State.**

**38. The Governor of Bihar may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Jharkhand as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Jharkhand:**

Provided that the Governor of Jharkhand may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Jharkhand for any period not extending beyond the said period of six months.

**39.** (1) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Bihar in respect of any period prior to the appointed day shall be submitted to the Governor of each of the successor States of Bihar and Jharkhand who shall cause them to be laid before the Legislature of that State.

(2) The President, after considering the views of the State Legislatures of the successor States, may by order—

(a) declare any expenditure incurred out of the Consolidated Fund of Bihar on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and

(b) provide for any action to be taken on any matter arising out of the said reports.

**40.** The President shall, by order, determine the share of States of Bihar and Jharkhand in the total amount payable to the existing State of Bihar on the recommendation of the Finance Commission constituted under article 280 of the Constitution; in such manner as he thinks fit.

Reports relating to accounts of Bihar State.

Distribution of revenue.

## PART VI

### APPORTIONMENT OF ASSETS AND LIABILITIES

**41.** (1) The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Bihar immediately before the appointed day.

Application of Part.

(2) The successor States shall be entitled to receive benefits arising out of the decisions taken by the predecessor State and the successor States shall be liable to bear the financial liabilities arising out of the decisions taken by the existing State of Bihar.

(3) The apportionment of assets and liabilities would be subject to such financial adjustment as may be necessary to secure just, reasonable and equitable apportionment of the assets and liabilities amongst the successor States.

(4) Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order, by the Central Government on the advice of the Comptroller and Auditor-General of India.

**42.** (1) Subject to other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Bihar shall,—

Land and goods.

(a) if within the transferred territory, pass to the State of Jharkhand; or

(b) in any other case, remain the property of the State of Bihar:

Provided that where the Central Government is of opinion that any goods or class of goods should be distributed between the States of Bihar and Jharkhand, otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(2) Stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops, undertakings or works are located.

(3) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Bihar shall be divided as may be agreed upon between the successor States, or in default of such agreement, as the Central Government may by order direct for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Bihar shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years prior to the appointed day, for the territories of the existing State of Bihar included respectively in each of the successor States:

Provided that where such proportion cannot be ascertained in respect of any class of stores or where the value of any class of such stores does not exceed rupees ten thousand, that class of stores shall be divided between the successor States according to the population ratio.

(5) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

**Treasury and bank balances.**

43. The total of the cash balances in all treasuries of the State of Bihar and the credit balances of the State with Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the States of Bihar and Jharkhand according to the population ratio:

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balance of the two States in the books of the Reserve Bank of India on the appointed day:

Provided further that if the State of Jharkhand has no account on the appointed day with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order, direct.

**Arrears of taxes.**

44. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the successor State in which the property is situated, and the right to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

**Right to recover loans and advances.**

45. (1) The right of the existing State of Bihar to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within that State shall belong to the successor State in which that area is included on that day.

(2) The right of the existing State of Bihar to recover any loans or advances made before the appointed day to any person or institution outside that State shall belong to the State of Bihar:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Bihar and Jharkhand according to the population ratio.

**Investments and credits in certain funds.**

46. (1) The securities held in respect of the investments made from Cash Balances Investment Account or from any Fund in the Public Account of the existing State of Bihar as specified in the Seventh Schedule shall be apportioned in the ratio of population of the successor States:

Provided that the securities held in investments made from the Calamity Relief Fund of the existing State of Bihar shall be divided in the ratio of the area of the territories occupied by the successor States:

Provided further that the balance in the Reserve Funds in the Public Account of Bihar created wholly out of appropriations from the Consolidated Fund of the existing State of Bihar, to the extent the balances have not been invested outside Government account, shall not be carried forward to similar Reserve Funds in the Public Account of successor States.

(2) The investments of the existing State of Bihar immediately before the appointed day, in any special fund, the objects of which are confined to a local area, shall belong to the State in which that area is included on the appointed day.

(3) The investments of the existing State of Bihar immediately before the appointed day in any private, commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the cash balance investment account, shall pass to the State in which the principal seat of business of the undertaking is located.

(4) Where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Bihar or any part thereof has, by virtue of the provisions of Part II, becomes an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the existing State of Bihar made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Bihar and Jharkhand in the same proportion in which the assets of the body corporate are divided under the provisions of this Part.

**47. (1)** The assets and liabilities relating to any commercial or industrial undertaking of the existing State of Bihar shall pass to the State in which the undertaking is located.

Assets and  
liabilities of  
State  
undertakings.

(2) Where a depreciation reserve fund is maintained by the existing State of Bihar for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

**48. (1)** All liabilities on account of Public Debt and Public Account of the existing State of Bihar outstanding immediately before the appointed day shall be apportioned in the ratio of population of the successor States unless a different mode of apportionment is provided under the provisions of this Act.

Public Debt.

(2) The individual items of liabilities to be allocated to the successor States and the amount of contribution required to be made by one successor State to another shall be such as may be ordered by the Central Government in consultation with the Comptroller and Auditor-General of India:

Provided that till such orders are issued, the liabilities on account of Public Debt and Public Account of the existing State of Bihar shall continue to be the liabilities of the successor State of Bihar.

(3) The liability on account of loans raised from any source and re-lent by the existing State of Bihar to such entities as may be specified by the Central Government and whose area of operation is confined to either of the successor States shall devolve on the respective States as specified in sub-section (4).

(4) The public debt of the existing State of Bihar attributable to loan taken from any source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; or

(b) if re-lent to the Bihar State Electricity Board, the Bihar State Road Transport Corporation, or the Bihar Housing Board or any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Bihar and Jharkhand in the same proportion in which the assets of such body corporate or institution are divided under the provisions of Part VII of this Act.

(5) Where a sinking fund or a depreciation fund is maintained by the existing State of Bihar for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the successor States of Bihar and Jharkhand in the same proportion in which the total public debt is divided between the two States under this section.

(6) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause (2) of section 2 of the Public Debt Act, 1944.

18 of 1944.

**Floating Debt.**

49. The liability of the existing State of Bihar in respect of any floating loan to provide short-term finance to any commercial undertaking shall be the liability of the State in whose territories the undertaking is located.

**Refund of taxes collected in excess.**

50. The liability of the existing State of Bihar to refund any tax or duty on property, including land revenue, collected in excess shall be the liability of the successor State in whose territories the property is situated, and the liability of the existing State of Bihar to refund any other tax or duty collected in excess shall be the liability of the successor State in whose territories the place of assessment of that tax or duty is included.

**Deposits, etc.**

51. (1) The liability of the existing State of Bihar in respect of any civil deposit or loan fund deposit shall, as from the appointed day, be the liability of the State in whose area the deposit has been made.

(2) The liability of the existing State of Bihar in respect of any charitable or other endowment shall, as from the appointed day, be the liability of the State in whose area the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment under the terms thereof, are confined.

**Provident fund.**

52. The liability of the existing State of Bihar in respect of the provident fund account of a Government servant in service on the appointed day shall, as from that day, be the liability of the State to which that Government servant is permanently allotted.

**Pensions.**

53. The liability of the existing State of Bihar in respect of pensions and other retirement benefits shall pass to, or be apportioned between, the successor States of Bihar and Jharkhand in accordance with the provisions contained in the Eighth Schedule to this Act.

**Contracts.**

54. (1) Where, before the appointed day, the existing State of Bihar has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power—

(a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of either of the successor States of Bihar and Jharkhand; and

(b) any other case, of the State of Bihar;

and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the existing State of Bihar, be rights or liabilities of the State of Jharkhand or the State of Bihar, as the case may be:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor States of Bihar and Jharkhand or in default of such agreement, as the Central Government may, by order, direct.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in or in connection with any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

**55.** Where, immediately before the appointed day, the existing State of Bihar is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

Liability in respect of actionable wrong.

(a) if the cause of action arose wholly within the territories which, as from that day, are the territories of either of the successor States of Bihar or Jharkhand, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Bihar, but subject to such financial adjustment as may be agreed upon between the States of Bihar and Jharkhand or, in default of such agreement, as the Central Government may, by order, direct.

**56.** Where, immediately before the appointed day, the existing State of Bihar is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the existing State of Bihar shall—

Liability as guarantor.

(a) if the area of operations of such society or persons is limited to the territories which, as from that day, are the territories of either of the States of Bihar or Jharkhand, be a liability of that successor State; and

(b) in any other case, be initially a liability of the State of Bihar, subject to such financial adjustment as may be agreed upon between the States of Bihar and Jharkhand or, in default of such agreements, as the Central Government may, by order, direct.

**57.** If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

Items in suspense.

**58.** The benefit or burden of any asset or liability of the existing State of Bihar not dealt with in the foregoing provisions of this Part shall pass to the State of Bihar in the first instance, subject to such financial adjustment as may be agreed upon between the States of Bihar and Jharkhand or, in default of such agreement, as the Central Government may, by order, direct.

Residuary provision.

**59.** Where the successor States of Bihar and Jharkhand agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

Apportionment of assets or liabilities by agreement.

**60.** Where, by virtue of any of the provisions of this Part, any of the successor States of Bihar and Jharkhand becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made within a period of three years from the appointed day by either of the States, that it is just and equitable that property or those benefits should be transferred to, or shared with, the other successor State, or that a contribution towards that liability should be made by the other successor State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order, determine.

Power of Central Government to order allocation or adjustment in certain cases.

**61.** All sums payable either by the State of Bihar or by the State of Jharkhand to the other States or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on the Consolidated Fund of the State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

Certain expenditure to be charged on Consolidated Fund.

## PART VII

## PROVISIONS AS TO CERTAIN CORPORATIONS

Provisions as  
to Bihar State  
Electricity  
Board, State  
Warehousing  
Corporation  
and State Road  
Transport  
Corporation.

**62. (1)** The following bodies corporate constituted for the existing State of Bihar, namely:—

- (a) the State Electricity Board constituted under the Electricity Supply Act, 1948;
- (b) the State Warehousing Corporation established under the Warehousing Corporations Act, 1962;
- (c) the State Road Transport Corporation established under the Road Transport Act, 1950,

54 of 1948.

58 of 1962.

64 of 1950.

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exceptions and modifications as the Central Government thinks fit.

(3) The Board or the Corporation referred to in sub-section (1) shall cease to function as from, and shall be deemed to be dissolved on such date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the successor States of Bihar and Jharkhand in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order, determine:

Provided that any liabilities of the said Board relating to the unpaid dues of the coal supplied to the Board by any public sector coal company shall be provisionally apportioned between the State Electricity Boards constituted respectively in the successor States of the existing State of Bihar or after the date appointed for the dissolution of the Board under this sub-section in such manner as may be agreed upon between the Governments of the successor States within one month of such dissolution or if no agreement is reached, in such manner as the Central Government may, by order, determine subject to reconciliation and finalisation of the liabilities which shall be completed within three months from the date of such dissolution by the mutual agreement between the successor States or failing such agreement by the direction of the Central Government:

Provided further that an interest at the rate of two per cent. higher than the Cash Credit interest shall be paid on outstanding unpaid dues of the coal supplied to the Board by the public sector coal company till the liquidation of such dues by the concerned State Electricity Board constituted in the successor States on or after the date appointed for the dissolution of the Board under this sub-section.

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Bihar, or, as the case may be, the Government of the State of Jharkhand from constituting, at any time on or after the appointed day, a State Electricity Board or a State Warehousing Corporation or a Road Transport Corporation for the State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (1),—

- (a) provision may be made by order of the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State, and

\* 30.6.2004: Vide notification A.O. S.O. 1437 (E), dt. 18-12-2003  
(in respect of Bihar state road transport corporation)

(b) upon the dissolution of the existing Board or Corporation,—

(i) any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (3) shall pass to the new Board or the new Corporation instead of to that State;

(ii) any employee who would otherwise have been transferred to or re-employed by that State under sub-section (3), read with clause (i) of sub-section (5), shall be transferred to or re-employed by the new Board or the new Corporation instead of to or by that State.

(5) An agreement entered into between the successor States under sub-section (3) and an order made by the Central Government under that sub-section or under clause (a) of sub-section (4) may provide for the transfer or re-employment of any employee of the Board or the Corporation referred to in sub-section (1),—

(i) to or by the successor States, in the case of an agreement under sub-section (4) or an order made under that sub-section;

(ii) to or by the new Board or the new Corporation constituted under sub-section (4), in the case of an order made under clause (a) of that sub-section,

and, subject to the provisions of section 65, also for the terms and conditions of service applicable to such employees after such transfer or re-employment.

**63.** If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II of this Act, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement.

Continuance of arrangements in regard to generation and supply of electric power and supply of water.

63 of 1951.

**64. (1)** The Bihar State Financial Corporation established under the State Financial Corporation Act, 1951 shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

Provisions as to Bihar State Financial Corporation.

(2) Any directions issued by the Central Government under sub-section (1) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Board of Directors of the Corporation may, with the previous approval of the Central Government and shall, if so required by the Central Government, convene at any time after the appointed day a meeting for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be, of the Corporation, including proposals regarding the formation of new Corporation, and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

(4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(5) If the scheme is not so approved or sanctioned, the Central Government may refer

the scheme to such Judge of the High Court at Patna and Jharkhand as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the corporations affected by the scheme as well as the shareholders and creditors thereof.

(6) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the States of Bihar and Jharkhand from constituting, at any time on or after the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

63 of 1951.

**Provisions as to certain companies.**

65. (1) Notwithstanding anything contained in the foregoing provisions of this Part, each of the companies specified in the Ninth Schedule to this Act shall, on and from the appointed day and until otherwise provided for in any law, or in any agreement among the successor States, or in any direction issued by the Central Government, continue to function in the areas in which it was functioning immediately before that day; and the Central Government may, from time to time, issue such directions in relation to such functioning as it may deem fit, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law.

1 of 1956.

(2) Any directions issued under sub-section (1) in respect of a company referred to in that sub-section, may include directions—

(a) regarding the division of the interests and shares of existing state of Bihar in the company among the successor States;

(b) requiring the reconstitution of the Board of Directors of the company so as to give adequate representation to both the successor States.

**General provision as to statutory corporations.**

66. (1) Save as otherwise expressly provided by the foregoing provisions of this Part, where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Bihar or any part thereof has, by virtue of the provisions of Part II of this Act, become an inter-State body corporate, then, the body corporate shall, on and from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

(2) Any directions issued by the Central Government under sub-section (1) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate, have effect subject to such exceptions and modifications as may be specified in the direction.

**Temporary provisions as to continuance of certain existing road transport permits.**

67. (1) Notwithstanding anything contained in section 88 of the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Bihar or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Jharkhand or any Regional Transport Authority therein for the purpose of validating it for use in such area:

59 of 1988.

Provided that the Central Government may, after consultation with the successor State Government or Governments concerned add to, amend or vary the conditions attached to the permit by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor States under any such permit, if such vehicle was, immediately before that day, exempt

from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may, after consultation with the State Government or Governments concerned, authorise the levy of any such toll, entrance fees or other charges, as the case may be.

**68.** Where on account of the reorganisation of the existing State of Bihar under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any other co-operative society or undertaking, then notwithstanding anything contained in section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section:

14 of 1947.

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F, 25FF or 25FFF of the Industrial Disputes Act, 1947 on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

14 of 1947.

43 of 1961.

**69.** Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961 shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

Special provision as to income-tax.

**70. (1)** The Government of State of Bihar or Jharkhand, as the case may be, shall, in respect of the institutions specified in the Tenth Schedule to this Act, located in that State, continue to provide facilities to the people of the other State which shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments before the 1st day of December, 2001 or if no agreement is reached by the said date as may be fixed by order of the Central Government.

Continuance of facilities in certain State institutions.

**(2)** The Central Government may, at any time before the 1st day of December, 2001 by notification in the Official Gazette, specify in the Tenth Schedule any other institution existing on the appointed day in the States of Bihar and Jharkhand and on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said institution therein.

Special provisions relating to retrenchment compensation in certain cases.

**Provisions  
relating to All-  
India Services.**

## PART VIII

### PROVISIONS AS TO SERVICES

**71. (1)** In this section, the expression "State cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) In place of the cadres of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Bihar, there shall, on and from the appointed day, be two separate cadres, one for the State of Bihar and the other for the State of Jharkhand in respect of each of these services.

(3) The initial strength and composition of the State cadres referred to in sub-section (2) shall be such as the Central Government may, by order, determine before the appointed day.

(4) The members of each of the said service borne on the Bihar cadre thereof immediately before the appointed day shall be allocated to the State cadres of the same service constituted under sub-section (2) in such manner and with effect from such date or dates as the Central Government may, by order, specify.

(5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All-India Service Act, 1951, or the rules made thereunder.

61 of 1951.

**Provisions  
relating to  
services in  
Bihar and  
Jharkhand.**

**72. (1)** Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Bihar shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Bihar unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Jharkhand:

Provided that no direction shall be issued under this section after the expiry of a period of one year from the appointed day.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

**73. (1)** Nothing in section 72 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Bihar or to the State of Jharkhand under section 72 shall not be varied to his disadvantage except with the previous approval of the Central Government.

**Other  
provisions  
relating to  
services.**

(2) All services prior to the appointed day rendered by a person—

(a) if he is deemed to have been allocated to any State under section 72, shall be deemed to have been rendered in connection with the affairs of that State;

(b) if he is deemed to have been allocated to the Union in connection with the administration of the Jharkhand shall be deemed to have been rendered in connection with the affairs of the Union,

for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 72, shall not apply in relation to members of any All-India Service.

**74.** Every person who, immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Bihar in any area which on that day falls within any of the successor States shall continue to hold the same post or office in that successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor State:

Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

**75.** The Central Government may by order establish one or more Advisory Committees for the purpose of assisting it in regard to—

(a) the discharge of any of its functions under this Part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

**76.** The Central Government may give such directions to the State Government of Bihar and the State Government of Jharkhand as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions.

**77. (1)** The Public Service Commission for the existing State of Bihar shall, on and from the appointed day, be the Public Service Commission for the State of Bihar.

(2) The persons holding office immediately before the appointed day as Chairman or other member of the Public Service Commission for the existing State of Bihar shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the State of Bihar.

(3) Every person who becomes Chairman or other member of the Public Service Commission for the State of Bihar on the appointed day under sub-section (2), shall—

(a) be entitled to receive from the Government of the State of Bihar conditions of service not less favourable than those to which he was entitled under the provisions applicable to him;

(b) subject to the proviso to clause (2) of article 316, hold office or continue to hold office until the expiration of his term of office as determined under the provisions applicable to him immediately before the appointed day.

(4) The report of the Bihar Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of the States of Bihar and Jharkhand, and the Governor of the State of Bihar shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Bihar and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Jharkhand.

Provisions as  
to continuance  
of officers in  
same post.

Advisory  
Committees.

Power of  
Central  
Government to  
give  
directions.

Provisions as  
to State Public  
Service  
Commission.

## PART IX

## MANAGEMENT AND DEVELOPMENT OF WATER RESOURCES

**78.** (1) Notwithstanding anything contained in this Act but subject to the provisions of section 79, all rights and liabilities of the existing State of Bihar in relation to water resource projects in relation to,—

- (i) Ganga and its tributaries; and
- (ii) Sone and its tributaries,

shall, on the appointed day be the rights and liabilities of the successor States in such proportion as may be fixed and subject to such adjustments as may be made, by agreement entered into by the said States after consultation with the Central Government, or, if no such agreement is entered into within two years of the appointed day, then the Central Government may, by order, determine within one year having regard to the purposes of the project:

Provided that the order so made by the Central Government may be varied by any subsequent agreement entered into by the successor States after consultation with the Central Government.

(2) An agreement or order referred to in sub-section (1) shall, where an extension or further development of any of the projects referred to in that sub-section after the appointed day is undertaken, be the rights and liabilities of the successor States in relation to such extension or further development.

(3) The rights and liabilities referred to in sub-sections (1) and (2) shall include,—

(a) the right to receive and utilise the water available for distribution as a result of the projects; and

(b) the right to receive and utilise the power generated as a result of the projects, but shall not include the rights and liabilities under any contract entered into before the appointed day by the Government of the existing State of Bihar with any person or authority other than Government.

**79.** (1) The Central Government shall constitute a Board to be called the Ganga and Sone Management Board (hereinafter referred to as the Board) for administration, construction, maintenance and operation of projects referred to in sub-section (1) of section 78 for any or for a combination of following purposes, namely:—

- (i) Irrigation;
- (ii) Rural and Urban Water Supply;
- (iii) Hydro Power generation;
- (iv) Navigation;
- (v) Industries; and
- (vi) for any other purpose which the Central Government may, by notification in the Official Gazette, specify.

(2) The Board shall consist of—

- (a) a whole-time Chairman and two whole-time members to be appointed by the Central Government;
- (b) a representative each of the Government of the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh to be nominated by the respective Governments;
- (c) two representatives of the Central Government to be nominated by that Government.

(3) The functions of the Board shall include—

(a) the regulation of supply of water from the projects referred to in sub-section (1) of section 78 to States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh having regard to—

(i) any agreement entered into or arrangement made covering the Governments of existing State of Bihar and the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh, and

(ii) the agreement or the order referred to in sub-section (2) of section 78;

(b) the regulation of supply of power generated at the projects referred to in sub-section (1) of section 78, to any Electricity Board or other authority incharge of the distribution of power having regard to—

(i) any agreement entered into or arrangement made covering the Governments of existing State of Bihar and the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh, and

(ii) the agreement or the order referred to in sub-section (2) of section 78;

(c) the examination of the requirement of funds for various projects in terms of the programme laid down for such projects and to advise the apportionment of the expenditure to the participating States keeping in view the agreement on the sharing of costs;

(d) to decide the withdrawal of water from the reservoirs during the construction period for irrigation and power purposes with a view to securing better use of available water;

(e) the responsibility of devising programme of resettlement for persons displaced as a result of Irrigation Projects;

(f) construction of such of the remaining or new works connected with the development of the water resource project relating to the rivers or their tributaries as the Central Government may specify by notification in the Official Gazette; and

(g) such other functions as the Central Government may after consultation with the Governments of the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh entrust to it.

**80. (1)** The Board may employ such staff, as it may consider necessary for the efficient discharge of its functions under this Act:

Provided that every person who immediately before the constitution of the said Board was engaged in the construction, maintenance or operation of the works relating to the projects referred to in sub-section (1) of section 78 shall continue to be so employed under the Board in connection with the said works on the same terms and conditions of the service as were applicable to him before such constitution until the Central Government by order, directs otherwise:

Provided further that the said Board may at any time in consultation with the State Governments or the Electricity Board concerned and with prior approval of the Central Government retain any such person for service under that State Government or Board.

(2) The Government of the States of Uttar Pradesh, Bihar, Jharkhand and Madhya Pradesh shall at all times provide the necessary funds to the Board to meet all expenses (including the salaries and allowances of the staff) required for the discharge of its functions and such amounts shall be apportioned among the States concerned in such proportion as the Central Government may have regard to the benefits to each of the said States specify.

(3) The Board shall be under the control of the Central Government and shall comply with such directions, as may from time to time, be given to it by that Government.

Staff of the  
Management  
Board.

(4) The Board may, with the approval of the Central Government delegate such of its powers, functions and duties as it may deem fit to the Chairman of the said Board or to any officer subordinate to the Board.

(5) The Central Government may, for the purpose of enabling the Board to function efficiently, issue such directions to the State Governments concerned, or any other authority, and the State Governments, or the other authority shall comply with such directions.

**Jurisdiction of the Board.**

81. (1) The Board shall, ordinarily exercise jurisdiction in regard to any of the projects referred to in sub-section (1) of section 78 over headwork (barrages, dams, reservoir, regulating construction), part of canal network and transmission lines necessary to deliver water or power to the States concerned.

(2) If any question arises as to whether the Board has jurisdiction under sub-section (1) over any project referred thereto, the same shall be referred to the Central Government for decision thereon.

**Power to make regulations.**

82. The Board may, with the prior approval of the Central Government by notification in the Official Gazette, make regulations consistent with this Act and orders made thereunder, to provide for—

- (a) regulating the time and place of meetings of the Board and the procedure to be followed for the transaction of business at such meetings;
- (b) delegation of powers and duties to the Chairman or any officer of the Board;
- (c) the appointment and regulation of the conditions of service of the officers and other staff of the Board; and
- (d) any other matter for which regulations are considered necessary by the Board.

## PART X

### LEGAL AND MISCELLANEOUS PROVISIONS

**Amendment of Act 37 of 1956.**

83. On and from the appointed day, in section 15 of the States Reorganisation Act, 1956, in clause (c), for the words "Bihar", the words "Bihar and Jharkhand" shall be substituted.

**Territorial extent of laws.**

84. The provisions of Part II of this Act shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Bihar shall, until otherwise provided by a competent Legislature or other competent authority be construed as meaning the territories within the existing State of Bihar before the appointed day.

**Power to adapt laws.**

85. For the purpose of facilitating the application in relation to the State of Bihar or Jharkhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

*Explanation.*—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its application to a State, the State Government.

**Power to construe laws.**

86. Notwithstanding that no provision or insufficient provision has been made under section 85 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Bihar or Jharkhand, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

**87.** The Government of the State of Jharkhand, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Power to name authorities, etc., for exercising statutory functions.

**88.** Where immediately before the appointed day, the existing State of Bihar is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Bihar and Jharkhand under this Act, the State of Bihar or Jharkhand which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Bihar or added as a party to those proceedings, and the proceedings may continue accordingly.

Legal proceedings.

**89.** (1) Every proceeding pending immediately before the appointed day before a court (other than the High Court), tribunal, authority or officer in any area which on that day falls within the State of Bihar shall, if it is a proceeding relating exclusively to the territory, which as from that day is the territory of Jharkhand State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

Transfer of pending proceedings.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the High Court at Patna and the decision of that High Court shall be final.

(3) In this section—

- (a) "proceeding" includes any suit, case or appeal; and
- (b) "corresponding court, tribunal, authority or officer" in the State of Jharkhand means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Bihar to be the corresponding court, tribunal, authority or officer.

**90.** Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Bihar shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Jharkhand.

Right of pleaders to practise in certain cases.

**91.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Effect of provisions of the Act inconsistent with other laws.

**92.** (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

Power to remove difficulties.

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

(2) Every order made under this section shall be laid before each House of Parliament.

## THE FIRST SCHEDULE

(See section 8)

(i) Of the seven sitting members whose term of office will expire on 9th April, 2002, namely, Maulana Obaidullah Khan Azmi, Ven'ble Dhammaviryo, Shri Nagendra Nath Ojha, Shri Prem Chand Gupta, Shri Ranjan Prasad Yadav, Shri Shatrughan Sinha and Shri Ram Deo Bhandari; Maulana Obaidullah Khan Azmi and Ven'ble Dhammaviryo, shall be deemed to have been elected to fill two of the seats allotted to the State of Jharkhand and the other five sitting members shall be deemed to have been elected to fill five of the seats allotted to the State of Bihar.

(ii) Of the seven sitting members whose term of office will expire on 7th July, 2004, namely, Shri Shibu Soren, Shri Gaya Singh, Shri Parmeshwar Kumar Agrawala, Shri Anil Kumar, Dr. R.K. Yadav Ravi, Shri Kapil Sibal, Smt. Saroj Dubey, Shri Shibu Soren and Shri Parmeshwar Kumar Agrawala shall be deemed to have been elected to fill two of the seats allotted to the State of Jharkhand and the other five sitting members shall be deemed to have been elected to fill five of the seats allotted to the State of Bihar.

(iii) Of the eight sitting members whose term of office will expire on 2nd April, 2006, namely, Shri S.S. Ahluwalia, Smt. Kum Kum Rai, Shri Faguni Ram, Shri Mahendra Prasad, Shri Ravi Shankar Prasad, Shri Rajiv Ranjan Singh, Shri Ram Kumar Anand and Shri Vijay Singh Yadav, Shri S. S. Ahluwalia and Shri Ram Kumar Anand shall be deemed to have been elected to fill two of the seats allotted to the State of Jharkhand and the other six sitting members shall be deemed to have been elected to fill six of the seats allotted to the State of Bihar.

## THE SECOND SCHEDULE

(See section 10)

In the Delimitation of Parliamentary and Assembly Constituencies Order, 1976,—

(i) in Schedule I,—

(a) for serial number 3 and the entries relating thereto, the following shall be substituted, namely:—

1	2	3	4	5	6	7
"3 Bihar	53	7	5	40	7	..";

(b) after serial number 21, the following serial number and entries shall be inserted, namely:—

1	2	3	4	5	6	7
"21A Jharkhand	..	..	14	1	5";	

(ii) in Schedule II,—

(a) for serial number 3 and the entries relating thereto, the following shall be substituted, namely:—

1	2	3	4	5	6	7
"3 Bihar	318	45	29	243	39	..";

(b) after serial number 21, the following serial number and entries shall be inserted, namely:—

1	2	3	4	5	6	7
"21A Jharkhand	..	..	81	9	28";	

(iii) in Schedule V,—

(a) in Part A—Parliamentary Constituencies,—

(A) serial numbers 26 to 28, 44 to 54 and the entries relating thereto shall be omitted;

(B) against serial number 29,—

(1) the entry "158 Deoghar (SC)" shall be omitted;

(2) after entry "176-Katoria", the entry "177-Chakai" shall be inserted;

(C) against serial number 30, the entry "164-Mahagama" shall be omitted;

(D) against serial number 30, after entry "171-Sultanganj", the entry "173-Dhuraiya" shall be inserted;

(E) against serial number 40, after entry "241-Goh", the entry "251-Imamganj (SC)" shall be inserted;

(F) against serial number 42, for entry "256-Atri", the entry "255-Fatehpur (SC), 256-Atri" shall be substituted;

(G) against serial number 43, after entry "253-Bodhgaya (SC)", the entry "254-Barachatti (SC)" shall be inserted;

(b) in Part B-Assembly Constituency, serial numbers 147 to 164, 262 to 324 and the entries relating thereto shall be omitted.

(iv) after Schedule XXII, the following Schedule shall be inserted, namely:—

**"SCHEDULE XXIII**

**JHARKHAND**

**PART A.—PARLIAMENTARY CONSTITUENCIES**

Serial No.	Name and extent in terms of assembly constituencies
1. Rajmahal (ST).	—1-Rajmahal, 2-Borio (ST), 3-Barhait (ST), 4-Litipara (ST), 5-Pakaur, 6-Maheshpur (ST).
2. Dumka (ST).	—7-Sikaripara (ST), 8-Nala, 9-Jamtara, 14-Sarith, 10-Dumka (ST), 11-Jama (ST).
3. Godda.	—13-Madhupur, 15-Deoghar (SC), 12-Jarmundi, 16-Poreyahat, 17-Godda, 18-Mahagama.
4. Chatra.	—27-Chatra (SC), 26-Simaria (SC), 74-Latehar (SC), 75-Panki, 73-Manika (ST).
5. Kodarma.	—19-Kodarma, 20-Barkatha, 28-Dhanwar, 29-Bagodar, 30-Jamua (SC), 31-Gandey.
6. Giridih.	—32-Giridih, 33-Dumri, 34-Gomia, 35-Bermo, 42-Tundi, 43-Baghmara.
7. Dhanbad.	—36-Bokaro, 38-Sindri, 39-Nirsa, 40-Dhanbad, 41-Jharia, 37-Chandankiyari (SC).
8. Ranchi.	—50-Ichagarh, 61-Silli, 62-Khijri (ST), 63-Ranchi, 64-Hatia, 65-Kanke (SC).
9. Jamshedpur.	—41-Bahragora, 45-Ghatsila (ST), 46-Potka (ST), 47-Jugslai (SC), 48-Jamshedpur-East, 49-Jamshedpur-West.
10. Singhbhum (ST).	—51-Seraikela (ST), 52-Chaibasa (ST), 53-Majhgaon (ST), 54-Jaganathpur (ST), 55-Manoharpur (ST), 56-Chakaradhpur (ST).
11. Khunti (ST).	—57-Kharsawan (ST), 58-Tamar (ST), 59-Torpa (ST), 60-Khunti (ST), 71-Kolebira (ST), 70-Simdega (ST).
12. Lohardaga (ST).	—66-Mandar (ST), 67-Sisai (ST), 68-Gumla (ST), 69-Bishunpur (ST), 72-Lohardagga (ST).
13. Palamu (SC).	—76-Daltonganj, 80-Garhwa, 81-Bhawanathpur, 77-Bishrampur, 78-Chhatarpur (SC), 79-Hussainabad.
14. Hazaribagh.	—21-Barhi, 22-Barkagaon, 23-Ramgarh, 24-Mandu, 25-Hazaribagh.

**PART B.—ASSEMBLY CONSTITUENCIES**

Serial No.	Name and extent of constituencies
<b>SAHEBGANJ DISTRICT</b>	
1. Rajmahal.	—Rajmahal and Sahebganj Police Stations in Rajmahal sub-division.
2. Borio (ST).	—Borio and Taljhari Police Stations in Rajmahal sub-division; and Boarijor Police Station (excluding G.Ps. Rajabhita, Kero, Kairasol, Bara Telo and Barapipra) in Godda sub-division.
3. Barhait (ST).	—Barhait and Ranga Police Stations in Rajmahal sub-division; and Sundarpahari Police Station and G.Ps. Rajabhita, Kero, Kairasol, Bara Telo and Barapipra in Boarijar Police Station in Godda sub-division.

Serial No.	Name and extent of constituencies
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#### PAKAUR DISTRICT

**4. Litipara (ST).**—Litipara, Amrapara and Hiranpur Police Stations in Pakaur sub-division; and Gopikandar Police Station in Dumka Sadar sub-division.

**5. Pakaur.**—Pakaur Police Station in Pakaur sub-division; and Barharwa Police Station in Rajmahal sub-division.

**6. Maheshpur (ST).**—Maheshpur and Pakuria Police Stations in Pakaur sub-division.

#### DUMKA DISTRICT

**7. Sikaripara (ST).**—Sikaripara, Raneshwar and Kathikund Police Stations in Dumka Sadar sub-division.

**8. Nala.**—Nala and Kundahit Police Stations in Jamtara sub-division.

**9. Jamtara.**—Jamtara Police Station (excluding G.Ps. Karmatanr, Sahajpur, Pindari, Lakhapur, Rataniya, Rampurbhitra and Kajra) and Narayanpur Police Station in Jamtara sub-division.

**10. Dumka (ST).**—Dumka Town, Dumka Mufassil and Masalia Police Stations in Dumka Sadar sub-division.

**11. Jama (ST).**—Jama and Ramgarh Police Stations in Dumka Sadar sub-division.

**12. Jarmundi.**—Jarmundi Police Station in Dumka Sadar sub-division; and Sarawan Police Station in Deoghar sub-division.

#### DEOGHAR DISTRICT

**13. Madhupur.**—Madhupur and Karon Police Stations and G.Ps. Kusmil, Chanddih, Pathra and Basbariya in Jasidih Police Station in Deoghar sub-division.

**14. Sarath.**—Sarah and Palojori Police Stations in Deoghar sub-division; and G.Ps. Karmatanr, Sahajpur, Pindari, Lakhapur, Rataniya, Rampurbhitra and Kajra in Jamtara Police Station in Jamtara sub-division.

**15. Deoghar (SC).**—Deoghar town and Mohanpur Police Stations and Jasidih Police Station (excluding G.Ps. Kusmil, Chanddih, Pathra and Basbariya) in Deoghar sub-division.

#### GODDA DISTRICT

**16. Poreyahat.**—Poreyahat Police Station and G.Ps. Burhikura, Dammajhilua, Sandmara, Nonbatta, Makhni, Pathra and Punsiya in Godda Police Station in Godda sub-division; and Saraiyahat Police Station in Dumka Sadar sub-division.

**17. Godda.**—Godda Police Station (excluding G.Ps. Burhikura, Dammajhilua, Sandmara, Nonbatta, Makhni, Pathra and Punsiya) and Pathargama Police Station in Godda sub-division.

**18. Mahagama.**—Mahagama and Meherma Police Stations in Godda sub-division.

#### KODARMA DISTRICT

**19. Kodarma.**—Kodarma and Sargawan Police Stations in Kodarma sub-division.

#### HAZARIBAGH DISTRICT

**20. Barkatha.**—Barkatha and Jainagar Police Stations in Kodarma sub-division; and Ichak Police Stations in Kodarma sub-division; and Ichak Police Station in Hazaribagh Sadar sub-division.

**21. Barhi.**—Barhi Police Station in Hazaribagh Sadar sub-division; and Chauparan Police Station in Kodarma sub-division.

Serial No.	Name and extent of constituencies
22. Barkagaon.	Barakgaon Police Station and G.Ps. Terpa, Patratu, Koto, Palani, Haphua, Harikarpur Gegda, Deoria, Bargama, Pali, Salgo, Sanki, Jabo, Chaingara, Chikor, Lapanga, Ghutua, Barkakana and Sidhwar-Kalan in Ramgarh Police Station in Hazaribagh Sadar sub-division.
23. Ramgarh.	Ramgarh Police Station (excluding G.Ps. Terpa, Patratu, Koto, Palani, Haphua, Harikarpur, Gegda, Deoria, Bargama, Pali, Salgo, Sanki, Jabo, Chaingara, Chikor, Lapanga, Ghutua, Barkakana and Sidhwar-Kalan) and Gola Police Station in Hazaribagh Sadar sub-division.
24. Mandu.	Mandu and Bishungarh Police Stations in Hazaribagh Sadar sub-division.
25. Hazaribagh.	Hazaribagh Police Station in Hazaribagh Sadar sub-division.
<b>CHATRA DISTRICT</b>	
26. Simaria (SC).	Simaria, Itkhori and Tandwa Police Stations in Chatra sub-division.
27. Chatra (SC).	Chatra, Pratappur and Hunterganj Police Stations in Chatra sub-division.
<b>GIRIDIH DISTRICT</b>	
28. Dhanwar.	Dhanwar and Gawan Police Stations in Giridih Sadar sub-division.
29. Bagodar.	Bagodar and Birni Police Stations in Giridih Sadar sub-division.
30. Jamua (SC).	Jamua and Deori Police Stations in Giridih Sadar sub-division.
31. Gandey.	Gandey and Bengabad Police Stations and G.Ps. Leda, Semaria, Badgunda, Palmo, Sathibad, Senadoni, Dhanaidih, Guro, Jitpur, Telodih, Ranidih and Karharbari in Giridih Mufassil Police Station in Giridih Sadar sub-division.
32. Giridih.	Giridih Town Police Station and Giridih Mufassil Police Station (excluding G.Ps. Leda, Semaria, Badgunda, Palmo, Sathibad, Senadoni, Dhanaidih, Guro, Jitpur, Telodih, Ranidih and Karharbari) and Pirtanr Police Station in Giridih Sadar sub-division.
33. Dumri.	Dumri Police Station in Giridih Sadar sub-division; and Nawadih Police Station in Bermo sub-division.
<b>BOKARO DISTRICT</b>	
34. Gomia.	Gomia Police Station and Petarbar Police Station (excluding G.Ps. Champi, Rohar, Chando, Pichhri, Angwali and Chalkari) in Bermo sub-division.
35. Bermo.	Jaridih and Bermo Police Stations and G.Ps. Champi, Rohar, Chando, Pichhri, Angwali and Chalkari in Petarbar Police Station in Bermo sub-division.
36. Bokaro.	Chas Police Station (excluding G.Ps. Bijulia, Alkusa, Buribinor, Khamarbendi, Dhudhigajar, Kura, Dabartupara, Jaitara, Pundru and Sardaha) in Baghmara sub-division.
37. Chandankiyari (SC).	Chandankiyari Police Station and G.Ps. Bijulia, Alkusa, Buribinor, Khamarbendi, Dhudhigajar, Kura, Dabartupara, Jaitara, Pundru and Sardaha in Chas Police Station in Baghmara sub-division.
<b>DHANBAD DISTRICT</b>	
38. Sindri.	Sindri, Baliapur and Gobindpur Police Station in Dhanbad Sadar sub-division.
39. Nirsa.	Nirsa and Chirkunda Police Stations in Dhanbad Sadar sub-division.

Serial No.	Name and extent of constituencies
40. <b>Dhanbad</b> .	—Dhanbad, Putki and Kenuadih Police Stations in Dhanbad Sadar sub-division.
41. <b>Jharia</b> .	—Jharia and Jorapokhar Police Stations in Dhanbad Sadar sub-division.
42. <b>Tundi</b> .	—Tundi Police Station in Dhanbad Sadar sub-division; Topchanchi Police Station and G.Ps. Dharkiro, Daludih, Rajganj, Bagdaha, Dhawachita, Nagri Kalan and Ramkanalichandur in Katras Police Station in Baghmara sub-division.
43. <b>Baghmara</b> .	—Baghmara Police Station and Katras Police Station (excluding G.Ps. Dharkiro, Daludih, Rajganj, Bagdaha, Dhawachita, Nagri Kalan and Ramkanalichandur) in Baghmara sub-division; and Jogta Police Station in Dhanbad Sadar sub-division.

## (EAST) SINGHBHUM DISTRICT

44. **Baharagora**.—Baharagora and Chakulia Police Stations in Dhalbhumi sub-division.
45. **Ghatsila (ST)**.—Ghatsila Police Station and Musabani Police Station (excluding G.Ps. Palasbani, Asta Koyali, Nunia, Kumarasol, Barakanjiya, Bomaro Bangoriya and Damudih) in Dhalbhumi sub-division.
46. **Potka (ST)**.—Potka Police Station, G.Ps. Palasbani, Asta Koyali, Nunia, Kumarasol, Barakanjiya, Bomaro Bangoriya and Damudih in Mušabani Police Station, Bagbera town and G.Ps. Karandih - Purihasa, Hargarghutu, Bagbera and village 1167-Kitadih in Jugsalai Police Station in Dhalbhumi sub-division.
47. **Jugsalai (SC)**.—Jugsalai Police Station (excluding Bagbera town and G.Ps. Karandih - Purihasa, Hargarghutu, Bagbera and village 1167-Kitadih) Golmuri and Patamda Police Station in Dhalbhumi sub-division.
48. **Jamshedpur East**.—Census wards 20 and 23 to 40 in Jamshedpur Notified Area Committee in Dhalbhumi sub-division.
49. **Jamshedpur West**.—Jamshedpur Notified Area Committee (excluding census wards 20 and 23 to 40) in Dhalbhumi sub-division.

## (WEST) SINGHBHUM DISTRICT

50. **Ichagarh**.—Ichagarh, Chandil and Nimdih Police Stations in Seraikella sub-division.
51. **Seraikella (ST)**.—Seraikella municipality and G.Ps. Govindpur, Pandra, Manik Bazar, Tangrani, Pathanmara, Jordiha, Gurgudia and Badakakda in Seraikella Police Station, Rajnagar Police Station (excluding village 98-Dighi) and Adityapur Police Station in Seraikella sub-division.
52. **Chaibasa (ST)**.—Chaibasa Sadar and Jhinkpani Police Stations and Chaibasa Mufassil Police Station (excluding G.Ps. Bhoya, Keadchalam, Domra-Parnia, Lota, Thakuragutu, Dopai-Gamhariya, Sarda, Matkamhatu, Khuntpani, Chiru and Rajabasa) in Chaibasa Sadar sub-division.
53. **Majhgaon (ST)**.—Majhgaon and Manjhari Police Stations in Chaibasa Sadar sub-division.
54. **Jaganathpur (ST)**.—Naomundi and Gua Police Stations and G.Ps. Kurtabera, Urkiya, Makaramda, Thalkobad, (Part I) and Chhotanagra (Part I) in Manoharpur Police Station in Chaibasa Sadar sub-division.
55. **Manoharpur (ST)**.—Manoharpur Police Station [excluding G.Ps. Kurtabera, Urkiya, Makaramda, Thalkobad (Part I) and Chhotanagra (Part I)] and G.Ps. Beralumin, Jojoda, Serengda, Orenga, Jhilrua, Goilkera, Kuira, Kadambiha, Dalaikela, Sonua-Jorapokhar, Porahat, Sogoisai, Gudri Jarakel, Asantaliya, Dalki-Gobindpur, Bhalurangi,

Serial No.	Name and extent of constituencies
------------	-----------------------------------

Harimara, Tunian Gajpur, Bandu, Poronger, Koloeda, Kulda, Bari, Lonjo, Bera Kayam, Mamail, Piring, Komrora, Komrora-Dairyo, Dura-Jante and Banskata and Chakradharpur Police Station in Chaibasa Sadar sub-division.

**56. Chakradharpur (ST).**—Chakradharpur Police Station (excluding G.Ps. Beralumin, Jojoda, Serengda, Orenga, Jhilrua, Goilkera, Kuira, Kadamdiha, Dalaikela, Sonua-Jorapokhar, Porahat, Sogoisai, Gudri Jarakel, Asantaliya, Dalki-Gobindpur, Bhalurangi, Harimara, Tunian Gajpur, Bandu, Poronger, Koloeda, Kulda, Bari, Lonjo, Bera Kayam, Mamail, Piring, Komrora, Komrora-Dairyo, Dura-Jante and Banskata) in Chaibasa Sadar sub-division.

**57. Kharsawan (ST).**—Kharsawan and Kuchai Police Stations and Seraikella Police Station (excluding Seraikella municipality and G.Ps. Govindpur, Para, Manik Bazar, Tangrani, Pathanmara, Jordiha Gurugudia and Badakakda) and village 98-Dighi in Rajnagar Police Station in Seraikella sub-division; and G.Ps. Bhoya Keachalam, Domra-Parnia, Lota, Thakurgutu, Dopai-Gamhariya, Sarda, Matkamhatu-Khuntpani, Chiru and Rajabasa in Chaibasa Mufassil Police Station in Chaibasa Sadar sub-division.

#### RANCHI DISTRICT

**58. Tamar (ST).**—Tamar, Erki and Bundu Police Stations in Khunti sub-divisions.

**59. Torpa (ST).**—Torpa and Rania Police Stations and G.Ps. Gumru, Gobindpur, Tilmi, Lapa, Jariagarh, Urikel and Hutub and Karra Police Station in Khunti sub-division; and Bano Police Station in Simdega sub-division.

**60. Khunti (ST).**—Khunti and Murhu Police Stations and Karra Police Station (excluding G.Ps. Gumru, Gobiadpur, Tilmi, Lapa, Jariagarh, Urikel and Hutub) in Khunti sub-division.

**61. Silli.**—Silli Police Station, G.Ps. Barwadag, Tati, Jonha, Kashidih, Merha, Ambajharia and Kontatoli and Angara Police Station in Ranchi Sadar sub-division; and Sonahatu Police Station in Khunti sub-division.

**62. Khijri (ST).**—Ormanjhi, Namkum and Hatia Police Stations and Angara Police Station (excluding G.Ps. Barwadag, Tati, Jonha, Kashidih, Merha, Ambajharia and Kontatoli) in Ranchi Sadar sub-division.

**63. Ranchi.**—Ranchi municipality in Ranchi Kotwali Police Station in Ranchi Sadar sub-division.

**64. Hatia.**—Jaganathpur, Ratu and Doranda Police Stations and Ranchi Kotwali Police Station (excluding Ranchi municipality) in Ranchi Sadar sub-division.

**65. Kanke (SC).**—Kanke, Ranchi Sadar, Burmu and Khelari Police Stations in Ranchi Sadar sub-division.

**66. Mandar (ST).**—Bero, Mandar and Lapung Police Stations, in Ranchi Sadar sub-division.

#### GUMLA DISTRICT

**67. Sisai (ST).**—Sisai, Kamdara and Basia Police Stations in Gumla sub-division.

**68. Gumla (ST).**—Gumla Municipality, G.Ps. Hurhuria, Ghatagaon, Asani, Chandali, Telgaon, Pugu, Bangaru, Karaundi, Dumardih and Murkunda in Gumla Police Station and Raidih, Chainpur and Dumri Police Stations in Gumla sub-division.

**69. Bishunpur (ST).**—Bishunpur and Ghaghra Police Stations and Gumla Police Station (excluding Gumla municipality and G.Ps. Hurhuria, Ghatagaon, Asani, Chandali, Telgaon, Pugu, Bangaru, Karaundi, Dumardih and Murkunda) in Gumla sub-division; and Senha Police Station in Lohardaga sub-division.

**70. Simdega (ST).**—Simdega and Kurdeg Police Stations in Simdega sub-division; and Palkot Police Station in Gumla sub-division.

Serial No.	Name and extent of constituencies
------------	-----------------------------------

**71. Kolebira (ST).**— Kolebira, Thethaitangar and Bolba Police Stations in Simdega sub-division.

#### LOHARDAGA DISTRICT

**72. Lohardaga (ST).**— Lohardaga, Kuru and Kisko Police Stations in Lohardaga sub-division.

#### PALAMAU DISTRICT

**73. Manika (ST).**— Latehar Police Station (excluding Latehar (N.A.C.) and G.Ps. Pochra, Luti, Kaima, Kura, Bishunpur, Mungar, Nindir, Laharpur and Zalim), Barwadih, Garoo and Mahuadarn Police Stations in Latehar sub-division.

**74. Latehar (SC).**— Latehar (N.A.C.), G.Ps. Pochra, Luti, Kaima, Kura, Bishunpur, Mungar, Nindir, Laharpur and Zalim in Latehar Police Station, Chandwa and Balumath Police Station in Latehar sub-division.

**75. Panki.**— Panki, Lesliganj and Manatu Police Station in Palamau Sadar sub-division.

**76. Daltonganj.**— Daltonganj and Chainpur Police Station in Palamau Sadar sub-division; and Bhandaria Police Station in Garhwa sub-division.

**77. Bishrampur.**— Bishrampur Police Station in Palamau Sadar sub-division; and Majhiaon Police Station in Garhwa sub-division.

**78. Chhatarpur (SC).**— Chhatarpur and Patan Police Station in Palamau Sadar sub-division.

**79. Hussainabad.**— Hussainabad and Hariharganj Police Station in Palamau Sadar sub-division.

#### GARHWA DISTRICT

**80. Garhwa.**— Garhwa Police Station (excluding G.Ps. Jarhi Balekhar, Raro, Sonehara and Dandai) and Ranka Police Station in Garhwa sub-division.

**81. Bhawanathpur.**— Bhawanathpur and Nagar Untari Police Station and G.Ps. Jarhi, Balekhar, Raro, Sonehara and Dandai in Garhwa Police Station in Garhwa sub-division.”.

## THE THIRD SCHEDULE

(See section 17)

SITTING MEMBERS WHO SHALL CONTINUE TO BE MEMBERS OF THE  
BIHAR LEGISLATIVE COUNCIL TILL THEIR RESPECTIVE  
PRESENT TERMS OF OFFICE

(i) Members representing any of the eleven Constituencies specified in item (1) of the Third Schedule.

(ii) The following members elected by the members of the Bihar Legislative Assembly, namely:—

1. Shri Sarfaraj Ahmed
2. Shri Saryu Rai
3. Shri Mahavir Lal Vishwakarma
4. Shri Bhutnath Soren
5. Shri Rajendranath Shahdev
6. Smt. Vibha Ranjan
7. Shri Badri Narayan Lal
8. Shri Praveen Singh.”.

## THE FOURTH SCHEDULE

(See section 18)

AMENDMENTS TO THE DELIMITATION OF COUNCIL CONSTITUENCIES  
(BIHAR) ORDER, 1951

(1) In the Table, omit the entries relating to—

- (i) Bhagalpur-cum-North Chhotanagpur (Graduates) Constituency;
- (ii) South Chhotanagpur (Graduates) Constituency;
- (iii) Bhagalpur-cum-North Chhotanagpur (Teachers) Constituency;
- (iv) South Chhotanagpur (Teachers) Constituency;
- (v) Santhal Parganas (Local Authorities) Constituency;
- (vi) Hazaribagh (Local Authorities) Constituency;
- (vii) Giridih (Local Authorities) Constituency;
- (viii) Ranchi (Local Authorities) Constituency;
- (ix) Palamu (Local Authorities) Constituency;
- (x) Dhanbad (Local Authorities) Constituency;
- (xi) East Singhbhum-cum-West Singhbhum (Local Authorities) Constituency.

(2) In the Table, in column 2,—

- (i) against "Kosi (Graduates) Constituency" in column 1, after the word "khagaria", insert the words "Bhagalpur Monghyr";
- (ii) against "Kosi (Teachers) Constituency" in column 1, after the word "Khagaria", insert the words "Bhagalpur Monghyr".

## THE FIFTH SCHEDULE

(See section 23)

## AMENDMENT TO THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950, in the Schedule,—

(i) in Part III relating to State of Bihar, in item No. 5, the brackets and words “(excluding North Chhotanagpur and South Chhotanagpur divisions and Santhal Parganas district)”, shall be omitted;

(ii) after Part VI, Himachal Pradesh, the following shall be inserted, namely:—

## “PART VIA—Jharkhand

1. Bantar
2. Baurri
3. Bhogta
4. Bhuiya
5. Chamar, Mochi
6. Choupal
7. Dabajar
8. Dhobi
9. Dom, Dhangad
10. Dusadh, Dhari, Dharhi
11. Ghasi
12. Halalkhor
13. Hair, Mehtar, Bhangi
14. Kanjar
15. Kuraiar
16. Lalbegi
17. Musahar
18. Nat
19. Pan, Sawasi
20. Pasi
21. Rajwar
22. Turi.”.

## THE SIXTH SCHEDULE

(See section 24)

## AMENDMENT TO THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950,—

(1) in paragraph 2, for the figures "XXI", the figures "XXII" shall be substituted;

(2) in the Schedule,—

(i) in Part III relating to State of Bihar, the item No. 6 and the entries relating thereto, shall be omitted, and the item Nos. 7 to 30 shall be renumbered as item Nos. 6 to 29;

(ii) after Part XXI, the following Part shall be inserted, namely:—

## “PART XXII — Jharkhand

1. Asur
2. Baiga
3. Banjara
4. Bathudi
5. Bedia
6. Binjhia
7. Birhor
8. Birjia
9. Chero
10. Chick Baraik
11. Gond
12. Gorait
13. Ho
14. Karmali
15. Kharia
16. Kharwar
17. Khond
18. Kisan
19. Kora
20. Korwa
21. Lohra
22. Mahli
23. Mal Pahariya
24. Munda
25. Oraon
26. Parhaiya
27. Santhal
28. Sauria Paharia
29. Savar
30. Bhumij.”.

## THE SEVENTH SCHEDULE

[See section 46(1)]

(Investments and Credits in certain funds)

1. State Provident Funds.
2. Trusts and Endowments.
3. Insurance and Pensions Funds.
4. Depreciation Reserve Funds — relating to Government Commercial Departments and Undertakings.
5. Famine Relief Funds.
6. Investment Account.
7. Development Fund for Educational Purposes.
8. General Reserve Funds of Government Commercial Departments and Undertakings.
9. Zamindari Abolition Funds.
10. Calamity Relief Fund Investment Account.
11. Revenue Deposits.
12. Security Deposits.
13. Civil Courts' Deposits.
14. Criminal Courts' Deposits.
15. Personal Deposits.
16. Trust Interest Funds.
17. Public Works Deposits.
18. Forest Deposits.
19. Deposits of Public Funds.
20. Other Departmental Deposits.
21. Deposits under various Central and State Acts.
22. Deposits for work done for Public bodies or private individuals.
23. Deposits of fees received by Government servants for works done for private bodies.
24. Deposits in connection with Elections.
25. Mines Labour Welfare Deposits.
26. Deposits of Educational Institutions.
27. Unclaimed Deposits in the General Provident Fund.
28. Unclaimed Deposits in other Provident Funds.
29. Deposits on account of cost price of Liquor, Ganja and Bhang.
30. District Funds.
31. Municipal Funds.
32. Cantonment Funds.

- 33. Funds of Insurance Association.
- 34. State Transport Corporation Fund.
- 35. State Electricity Boards Working.
- 36. State Housing Funds.
- 37. Panchayats Bodies Funds.
- 38. Education Funds.
- 39. Medical and Charitable Funds.
- 40. Other Funds.
- 41. Subventions from Central Road Fund.
- 42. Miscellaneous Deposits.

## THE EIGHTH SCHEDULE

(See section 53)

## APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS AND OTHER RETIREMENT BENEFITS

1. Subject to the adjustments mentioned in paragraph 3, each of the successor State shall in respect of pension and other retirement benefits sanctioned before the appointed date, pay from their respective treasuries.
2. Subject to the said adjustment, the liability in respect of pensions and other retirement benefits of officers serving in connection with the affairs of the existing State of Bihar who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions and other retirement benefits are outstanding immediately before that day, shall be the liability of the State of Bihar.
3. Subject to the said adjustments, sanctions of such pension and other retirement benefits by the competent authority may be given in those cases, in which their office falls in the territory of Jharkhand State.
4. There shall be computed, in respect of the period commencing on the appointed day and ending on the 31st day of March of that financial year and in respect of each subsequent financial year, the total payments made in all the successor States in respect of pensions and other retirement benefits referred to in paragraphs 1 and 2. The total representing the liability of the existing State of Bihar in respect of pensions and other retirement benefits shall be apportioned between the successor States in the ratio of number of employees of each successor State and any successor State paying more than its due share shall be reimbursed the excess amount by the successor State or State paying less.
5. The liability of the existing State of Bihar in respect of pensions and other retirement benefits granted before the appointed day and drawn in any area outside the territories of the existing State shall be the liability of the State of Bihar paying subject to adjustments to be made in accordance with paragraph 3 as if such pensions and other retirement benefits had been drawn in any treasury in the State of Bihar under paragraph 1.
6. The liability in respect of the pensions and other retirement benefits of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Bihar and retiring on or after that day, shall be that of the successor State granting him the pension and other retirement benefits, but the portion of the pension and other retirement benefits attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Bihar shall be allocated between the successor States in the population ratio and the Government granting the pension and other retirement benefits shall be entitled to receive from each of the other successor States its share of this liability.
7. Any reference in this Schedule to a pension and other retirement benefits shall be construed as including a reference to the commuted value of the pension and other retirement benefits.

## THE NINTH SCHEDULE

[See section 65(1)]

## LIST OF STATE OWNED CORPORATIONS/COMPANIES

1. Bihar State Industries Development Corporation.
2. Bihar State Leather Development Corporation.
3. Bihar State Electronics Development Corporation.
4. Bihar State Sugar Corporation Limited.
5. Bihar State Medicine and Chemical Development Corporation.
6. Bihar State Fruit and Vegetables Development Corporation.
7. Bihar State Dairy Corporation Limited.
8. Bihar State Agro Industries Corporation.
9. Bihar State Textiles Corporation Limited.
10. Bihar State Small Industries Corporation Limited.
11. Bihar State Handloom and Handicrafts Corporation.
12. Bihar State Khadi Gramudyog Board.
13. Bihar State Agriculture Marketing Board.
14. Bihar State Forest Development Corporation Limited.
15. Bihar State Export Development Corporation Limited.
16. Bihar State Seeds Corporation Limited.
17. Bihar State Fish Seeds Development Corporation Limited.
18. Bihar State Warehousing Corporation.
19. Bihar State Tourism Development Corporation Limited.
20. Bihar State Road Transport Corporation.
21. Bihar State Food and Civil Supplies Corporation.
22. Bihar State Text Book Publishing Corporation Limited.
23. Bihar State Construction Corporation Limited.
24. Bihar State Mineral Development Corporation Limited.
25. Bihar State Housing Board.
26. Bihar State Bridge Construction Corporation Limited.
27. Bihar State Police Building Construction Corporation Limited.
28. Bihar State Electricity Board.
29. Bihar State Hydroelectric Power Corporation Limited.
30. Bihar State Hill Area and Irrigation Development Limited.
31. Patna Industrial Area Development Authority.
32. Bokaro Industrial Area Development Authority.
33. Ranchi Industrial Area Development Authority.
34. Adityapur Industrial Area Development Authority.
35. North Bihar Industrial Area Development Authority.
36. Darbhanga Industrial Area Development Authority.
37. Patna Area Development Authority.
38. Ranchi Area Development Authority.

39. Muzaffarpur Area Development Authority.
40. Darbhanga Area Development Authority.
41. Gaya Area Development Authority.
42. Bihar State Pollution Control Board.
43. Bihar State Water and Sewage Disposal Board.
44. Bihar State Financial Corporation.
45. Bihar State Credit and Investment Corporation Limited.
46. Bihar State Panchayati Raj Finance Development Corporation Limited.
47. Bihar State Minorities Finance Corporation Limited.
48. Bihar State Film Development and Finance Corporation Limited.
49. Electricity Corporation Limited.
50. Mines Area Development Authority, Dhanbad.
51. Hazaribagh Mines Board.
52. Bhagalpur Regional Development Authority, Bhagalpur.
53. Women's Development Corporation.
54. Backward Classes Development Corporation.
55. Scheduled Castes Development Corporation.
56. Scheduled Tribes Development Corporation.

## THE TENTH SCHEDULE

(See section 70)

## CONTINUANCE OF FACILITIES IN CERTAIN STATE INSTITUTIONS

## List of Training Institution/Centres

1. Sri Krishna Institute of Public Administration.
2. Police Training College.
3. Bihar Institute of Rural Development.
4. Village Handicrafts Training Centre.
5. Tribal Village Handicraft Training Centres.
6. Training-cum-Production Centres for Toys, Ceramic Goods, Embroidery and Applique, Homemade Goods and Cutting and Tailoring.
7. Ideal Woodwork Workshops/Iron Workshops.
8. Indo Danish Tool Room and Training Centre, Jamshedpur.
9. All Government Industrial Institutes
  - Affiliated with N.C.V.T.
  - Un-affiliated.
10. All Private Industrial Institutes
  - Affiliated with N.C.V.T.
  - Un-affiliated.
11. B.I.T., Sindri.
12. R.I.T., Jamshedpur.
13. Government Polytechnic, Dhanbad.
14. Government Polytechnic, Ranchi.
15. Government Polytechnic, Adityapur.
16. Government Polytechnic, Khutri.
17. Government Polytechnic, Lathehar.
18. Government Women's Polytechnic, Jamshedpur.
19. Government Women's Polytechnic, Ranchi.
20. Government Women's Polytechnic, Bokaro.
21. Mines Institution, Dhanbad.
22. Mines Institution, Bagha.
23. Mines Institution, Koderma.
24. Government Polytechnic, Dumka.
25. Government Women's Industrial School, Ranchi.
26. Government Women's Industrial School, Hazaribagh.
27. Government Women's Industrial School, Daltonganj.
28. Sainik School, Tilaiya.
29. Netarhat School.
30. Indira Gandhi Girls School, Hazaribagh.

**THE ARMY AND AIR FORCE (DISPOSAL OF PRIVATE PROPERTY) AMENDMENT ACT, 2000**

**No. 31 OF 2000**

[25th August, 2000.]

An Act further to amend the Army and Air Force (Disposal of Private Property) Act, 1950.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:

- |   |                          |
|---|--------------------------|
| 1. This Act may be called the Army and Air Force (Disposal of Private Property) Amendment Act, 2000.  | Short title.             |
| 2. In section 7 of the Army and Air Force (Disposal of Private Property) Act, 1950 (hereinafter referred to as the principal Act), in sub-sections (1) and (3), for the words and figures "the Administrator General's Act, 1913", the words and figures "the Administrators-General Act, 1963" shall be substituted. | Amendment of section 7.  |
| 3. In section 10 of the principal Act, for the words "ten thousand", the words "two lakhs" shall be substituted.  | Amendment of section 10. |
| 4. In section 14 of the principal Act, for the words and figures "the Indian Lunacy Act, 1912", the words and figures "the Mental Health Act, 1987" shall be substituted.   | Amendment of section 14. |

40 of 1950.

3 of 1913.  
45 of 1963.

4 of 1912.  
14 of 1987.

## **THE INDIAN POWER ALCOHOL (REPEAL) ACT, 2000**

**No. 32 OF 2000**

**[25th August, 2000.]**

**An Act to repeal the Indian Power Alcohol Act, 1948.**

**Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**1. This Act may be called the Indian Power Alcohol (Repeal) Act, 2000.**

**Short title.**

**2. The Indian Power Alcohol Act, 1948 is hereby repealed.**

**Repeal of Act  
22 of 1948.**

**THE ALL-INDIA INSTITUTE OF MEDICAL SCIENCES  
(AMENDMENT) ACT, 2000**

No. 33 OF 2000

[25th August, 2000.]

An Act further to amend the All-India Institute of Medical Sciences Act, 1956.

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

1. This Act may be called the All-India Institute of Medical Sciences (Amendment) Act, 2000. Short title.

25 of 1956. 2. In the All-India Institute of Medical Sciences Act, 1956, in section 6, in the proviso to sub-section (1), after the words "as soon as he", the words "becomes a Minister or Minister of State or Deputy Minister, or the Speaker or the Deputy Speaker of the House of the People, or the Deputy Chairman of the Council of States or" shall be inserted. Amendment of section 6.

# THE CHEMICAL WEAPONS CONVENTION ACT, 2000

## ARRANGEMENT OF SECTIONS

### CHAPTER I

#### PRELIMINARY

##### SECTIONS

1. Short title, extent, application and commencement.
2. Definitions.
3. Application of the Convention.
4. Power of Central Government to deny the request for inspection.
5. Power of Central Government to declare Cessation of the Act.

### CHAPTER II

#### ESTABLISHMENT OF THE NATIONAL AUTHORITY AND ITS POWERS AND FUNCTIONS

6. Establishment of National Authority.
7. Powers and functions of National Authority.
8. National Authority to submit initial, annual and other periodical declaration to Organisation.
9. Appointment of enforcement officers.
10. Power of National Authority to issue directions.
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**THE SCHEDULE.**

## **THE CHEMICAL WEAPONS CONVENTION ACT, 2000**

**No. 34 OF 2000**

*[26th August, 2000.]*

**An Act to give effect to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and to provide for matters connected therewith or incidental thereto.**

**WHEREAS** a Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction was signed on behalf of the Government of India at Paris on the 14th day of January, 1993;

**AND WHEREAS** India, having ratified the said Convention, has to make provisions for giving effect thereto and for matters connected therewith or incidental thereto.

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

### **CHAPTER I**

#### **PRELIMINARY**

**1. (1) This Act may be called the Chemical Weapons Convention Act, 2000.**

**Short title, extent,  
application and  
commencement.**

**(2) It extends to the whole of India, and it shall apply to—**

**(a) citizens of India outside India; and**

**(b) associates, branches or subsidiaries, outside India of companies or bodies corporate, registered or incorporated in India.**

(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 provisions of this Act.

**Definitions.**

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

(a) "Article" means an Article of the Convention;

(b) "Chemical Weapons" means,—

(i) the Toxic Chemicals and their precursors, except where intended for purposes not prohibited under the Convention, as long as the types and quantities are consistent with such purposes;

(ii) the munitions and devices, specifically designed to cause death or other harm through the toxic properties of those Toxic Chemicals specified in sub-clause (i), which would be released as a result of the employment of such munitions and devices;

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in sub-clause (ii), together or separately;

(c) "Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction signed on behalf of the Government of India at Paris on the 14th day of January, 1993;

(d) "enforcement officer" means a person appointed as such by the Central Government under sub-section (1) of section 9 or by the State Government under sub-section (2) of that section;

(e) "goods", in relation to Toxic Chemicals, Precursors or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine, means any material, commodity, article or compound consisting of such Toxic Chemicals, Precursors or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine and includes materials, commodities, articles, compounds or apparatus used in the production, processing or storing of Toxic Chemicals, Precursors or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine;

(f) "industry" includes a Facility;

(g) "Inspector" means an individual designated by the Technical Secretariat, according to the procedures as set forth in Part II, Section A, of the Verification Annex to the Convention, to carry out an inspection or visit in accordance with the Convention;

(h) "National Authority" means the National Authority for the Chemical Weapons Convention established under sub-section (1) of section 6;

(i) "Organisation" means the Organisation for the prohibition of Chemical Weapons established pursuant to Article VIII;

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

(k) "purposes not prohibited under the Convention" means—

(i) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(ii) protective purposes namely those purposes directly related to protection against Toxic Chemicals and to protection against Chemical Weapons;

(iii) military purposes not connected with the use of Chemical Weapons

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and not dependant on the use of the Toxic Properties of Chemicals as a method of warfare; and

(iv) law enforcement including domestic riot control purposes;

(l) "State Party" means a signatory or acceding State to the Convention whose instrument of ratification or accession has been deposited with the Depository of the Convention;

(m) words and expressions used in this Act and not defined but defined in the Convention, or the Code of Criminal Procedure, 1973, shall have the meanings respectively assigned to them in that Convention or Code.

3. (1) Notwithstanding anything to the contrary contained in any other law, the provisions of the Convention set out in the Schedule to this Act shall have the force of law in India.

(2) The Central Government may, from time to time and by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

4. Where the Central Government considers any inspection of a Chemical Weapons Production Facility in India under this Act to be against the interest of national security or economic interests of India, it may deny the request for such inspection.

5. The Central Government may, by notification in the Official Gazette, declare that this Act shall cease to be in force in case the Government of India withdraws from the Convention in accordance with the provisions of Article XVI, and on such declaration this Act shall cease to be in force, but its expiry under the operation of this Section shall not affect—

(a) the previous operation of, or anything duly done or suffered under, this Act or any rule made thereunder or any order made under any such rule, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under this Act or any rule made thereunder or any order made under any such rule, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence under this Act, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not expired.

## CHAPTER II

### ESTABLISHMENT OF THE NATIONAL AUTHORITY AND ITS POWERS AND FUNCTIONS

6. (1) For the purposes of this Act, the Central Government shall establish, by notification in the Official Gazette, an Authority to be known as the National Authority for implementing the provisions of the Convention which shall consist of a Chairperson and such number of Directors as may be appointed by the Central Government.

(2) The Central Government may appoint officers and such other employees to the National Authority as it thinks fit for the purposes of this Act.

(3) The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the Directors shall be such as may be prescribed.

(4) The salary and allowances payable to, and other terms and conditions of service of, officers and other employees of the National Authority shall be such as may be prescribed.

Power of Central Government to deny the request for inspection.

Power of Central Government to declare Cessation of the Act.

Establishment of National Authority.

(5) In the exercise of its powers and performance of its functions under this Act, the National Authority shall be subject to the control of the Central Government.

7. (1) Subject to the provisions of this Act,—

(a) it shall be the general duty of the National Authority to fulfil, on behalf of the Government of India, the obligations under the Convention;

(b) it shall be incumbent on the National Authority to act as the national focal point for effective liaison with the Organisation and other States Parties on matters relating to the Convention.

(2) Subject to the provisions of sub-section (1), the functions of the National Authority shall be to—

(a) interact with the Organisation and other States Parties for the purpose of fulfilling the obligations of the Government of India under the Convention;

(b) monitor compliance with the provisions of the Convention;

(c) regulate and monitor the development, production, processing, consumption, transfer or use of Toxic Chemicals or Precursors as specified in the Convention;

(d) make request to, or to receive request from, a State Party for assistance and protection under Article X, against the use or threat of use of Chemical Weapons;

(e) manage routine inspection or Challenge Inspection or managing investigation, in case a complaint of use of Chemical Weapons or riot control agents as a method of warfare is received from the Organisation;

(f) conduct inspections for the purposes of this Act;

(g) interact with the Organisation in respect of acceptance of request of India for Challenge Inspection or to counter any frivolous or defamatory request made by any State Party against India to the Organisation;

(h) scrutinise and accept list of Inspectors and to verify the Approved Equipment brought by an Inspection Team on to the Inspection Site;

(i) provide escort to the Inspection Team and the Observer within the territory of India;

(j) identify and oversee the closure and destruction of Chemical Weapons, Chemical Weapons Production Facilities, Old Chemical Weapons or Abandoned Chemical Weapons;

(k) negotiate Managed Access during the Challenge Inspection;

(l) ensure decontamination of Approved Equipment after completion of an Inspection;

(m) advise Central Government for laying down safeguards for transportation, sampling or storage of Chemical Weapons and fixation of standards for emission or discharge of environmental pollutants arising out of the destruction of Chemical Weapons, Old Chemical Weapons, Abandoned Chemical Weapons or Chemical Weapons Production Facility;

(n) ensure data base confidentiality and maintain secrecy of confidential information and technology collected or received by the National Authority under this Act;

(o) facilitate exchange of scientific and technological information relating to developments in chemicals amongst the States Parties;

(p) call for such information from any person which the National Authority has reasonable cause to believe that such information may be required for complying with the provisions of the Convention;

(q) approve and declare, on behalf of the Government of India, a single small-scale facility for production of Toxic Chemicals listed in Schedule 1 in the Annex on Chemicals to the Convention for purposes not prohibited under the Convention;

(r) provide training to enforcement officers;

(s) ensure protection of environment, health and safety of the people during transportation, sampling, storage or destruction of Chemical Weapons, Chemical Weapons Production Facilities, Old Chemical Weapons or Abandoned Chemical Weapons;

(t) co-ordinate exchange of scientific and technological information among laboratories handling Toxic Chemicals or Precursors;

(u) determine, from time to time, the quantity limit that a person at any time may produce, otherwise acquire, retain, transfer or use any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention, any Discrete Organic Chemical including Discrete Organic Chemical containing elements of phosphorous, sulphur or fluorine for purposes not prohibited under the Convention;

(v) such other functions as may be prescribed.

**8.** The National Authority shall prepare such initial, annual and other periodical declarations regarding Toxic Chemicals or Precursors listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention, Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine, Chemical Weapons, Old Chemical Weapons, Abandoned Chemical Weapons, riot control agents, Chemical Weapons Production Facilities, past transfers of Chemical Weapons or their production equipments or any other declaration required to be made under the Convention and shall submit such declarations to the Organisation at such time as are specified under the Convention.

National Authority to submit initial, annual and other periodical declarations to Organisation.

**9. (1)** The Central Government may, by notification in the Official Gazette, appoint such of the officers of the National Authority as it thinks fit to be enforcement officers for the purposes of this Act.

Appointment of enforcement officers.

**(2)** The State Government may, as and when so directed by the Central Government and by notification in the Official Gazette, appoint such of its officers of gazetted rank as it thinks fit to be enforcement officers for the purposes of this Act and assign to them such local limits as it may think fit.

**(3)** Every officer appointed as enforcement officer under sub-section (1) or under sub-section (2) shall be furnished by the Central Government or by the State Government, as the case may be, with a certificate of appointment as an enforcement officer and the certificate shall, on demand, be produced by such enforcement officer.

**10.** Notwithstanding anything contained in any other law but subject to the provisions of this Act, the National Authority may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or authority and such person, officer or authority shall be bound to comply with such directions.

Power of National Authority to issue directions.

*Explanation.*—For the avoidance of doubts, it is hereby declared that the power to issue direction under this section includes the power to direct—

(a) the closure, prohibition or regulation of any company, firm or industry engaged in the development, production, processing, consumption or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on

Chemicals to the Convention or, the production of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine; or

(b) the stoppage or regulation of the supply of electricity or water or any other service to such company, firm or industry.

Power of Central Government to constitute Committee.

**11.** The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute a Committee by such name as may be specified in the order for the purpose of overseeing the functions of the National Authority and exercising and performing such of the powers and functions of the Central Government under this Act (except the power to make rules under section 56) as may be specified in the order and subject to the supervision and control of the Central Government and the provisions of such order, such Committee may exercise the powers or perform the functions so specified in the order as if such Committee had been empowered by this Act to exercise those powers or perform those functions.

Power of National Authority to call for information, etc.

**12.** (1) Notwithstanding anything contained in any other law for the time being in force, the National Authority may, by general or special order, call upon a person, to furnish to that Authority periodically or as and when required any information, declaration or return concerning Toxic Chemicals or Precursors listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention, Chemical Weapons, Old Chemical Weapons, Abandoned Chemical Weapons, Chemical Weapons Production Facilities, riot control agents, single small-scale facility or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine with such particulars as may be specified by the National Authority.

(2) No person shall, when complying with any requisition made under sub-section (1), give any information or furnish any declaration, return or statement which he knows, or has reasonable cause to believe to be false or not true in any material particular.

### CHAPTER III

#### PROHIBITION AND REGULATION OF CHEMICAL WEAPONS AND TOXIC CHEMICALS

Prohibition to develop, produce, acquire, etc., Chemical Weapons.

**13. (1)** No person shall—

(a) develop, produce, otherwise acquire, stockpile, retain or use Chemical Weapons, or transfer, directly or indirectly, any Chemical Weapons to any person;

(b) use riot control agents as a method of warfare;

(c) engage in any military preparations to use Chemical Weapons;

(d) assist, encourage or induce, in any manner, any person to engage in—

(i) the use of any riot control agent as a method of warfare;

(ii) any other activity prohibited to a State Party under the Convention.

(2) The prohibition contained in sub-section (1) shall not apply to the retention or possession of Chemical Weapons, which are permitted by the Convention, pending destruction of such Weapons.

Knowledge about Old or Abandoned Chemical Weapons to be informed to National Authority.

**14.** Any person having knowledge about the possession or location of Old Chemical Weapons or Abandoned Chemical Weapons shall inform the National Authority of such possession and the precise location of such Old Chemical Weapons or Abandoned Chemical Weapons within seven days from the commencement of this Act:

Provided that where the knowledge about the possession or location of Old Chemical Weapons or Abandoned Chemical Weapons is obtained after the commencement of this Act, an information about knowledge of such possession or location shall be given to the National Authority within seven days from the occurrence of such knowledge.

**15. No person shall—**

(a) produce, acquire, retain or use Toxic Chemicals or Precursors listed in Schedule 1 in the Annex on Chemicals to the Convention, outside the territories of States Parties, and shall not transfer such Chemicals or Precursors outside the territory of India except to another State Party;

(b) produce, acquire, retain, transfer or use Toxic Chemicals or Precursors listed in Schedule 1 in the Annex on Chemicals to the Convention without permission from the National Authority and unless—

(i) the Toxic Chemicals or Precursors listed in Schedule 1 in the Annex on Chemicals to the Convention are for the purposes to be applied to research, medical, pharmaceutical or protective purposes; and

(ii) the types of Toxic Chemicals or Precursors are strictly limited to those that can be justified with reference to the purposes specified in sub-clause (i) and the quantities of such Toxic Chemicals or Precursors for such purposes at any time do not exceed the limits fixed by the National Authority;

(c) transfer the Toxic Chemicals or Precursors listed in Schedule 1 in the Annex on Chemicals to the Convention to another State Party outside India except—

(i) for the purposes specified in sub-clause (i) of clause (b); and

(ii) in accordance with the procedure set out in Part VI of the Verification Annex to the Convention:

Provided that no Toxic Chemicals or Precursors referred to in clause (c) shall be re-transferred to any third State.

**16. No person shall, three years after the 29th day of April, 1997, transfer to or receive from any person, who is not a citizen of a State Party, any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the Convention.**

Prohibition to develop, produce, acquire, etc., Toxic Chemical or Precursor.

Restriction on transfer of Toxic Chemical or Precursor listed in Schedule 2.

Export or Import to be made in accordance with Export and Import Policy.

22 of 1992.

**17. No person shall export from, or import into, India a Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention except in accordance with the provisions of the Export and Import Policy determined by the Central Government from time to time under the Foreign Trade (Development and Regulation) Act, 1992 and the Orders issued thereunder.**

## CHAPTER IV

### REGISTRATION OF PERSONS AS PRODUCERS, USERS, ETC.

**18. (1) Every person who is engaged in the production, processing, acquisition, consumption, transfer, import, export or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or, engaged in the production of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine shall make, within thirty days from the commencement of this Act, an application for registration of his name, as a producer, processor, acquirer, consumer, transferor, importer, exporter or user of any Toxic Chemical or Precursor or, as the case may be, as a producer of any Discrete Organic Chemicals including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine, to such registration authority as the Central Government may, by notification in the Official Gazette, specify in this behalf.**

Registration of persons engaged in production, etc., of any Toxic Chemical or Precursor.

(2) No person, who after the commencement of this Act, desires to produce, process, acquire, consume, transfer, import, export or use any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or, desires to produce any Discrete Organic Chemical including Discrete Organic Chemicals containing

elements of phosphorous, sulphur or fluorine, shall commence business unless such person has applied to the registration authority specified under sub-section (1) for registration of his name as a producer, processor, acquirer, consumer, transferor, importer, exporter or user of any Toxic Chemical or Precursor or, as the case may be, as a producer of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine.

(3) The form of application to be made to the registration authority under sub-section (1) or sub-section (2), the particulars to be contained in such application form, the manner in which such application shall be made, the fee payable on such application, the form of certificate of registration, the procedure to be followed in granting or cancelling certificate of registration shall be such as may be prescribed.

(4) On receipt of the application referred to in sub-section (1) or sub-section (2), the registration authority shall, if the application is in the prescribed form, register the name of the applicant and grant him a certificate of registration.

(5) The certificate of registration granted in pursuance of this section shall be valid for a period specified therein and may be renewed from time to time for such further period and on payment of such fee as may be prescribed.

## CHAPTER V

### INSPECTION, SEARCH, SEIZURE AND FORFEITURE

**Power of Inspector  
to inspect any  
person or place.**

**19. (1) An Inspector may inspect—**

**(a) any person who is engaged in—**

**(i) the production, processing, acquisition, consumption, transfer, import, export or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention; or**

**(ii) the production of any Discrete Organic Chemical including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine;**

**(b) any place where any Chemical Weapon, Old Chemical Weapon or Abandoned Chemical Weapon is located or Chemical Weapon Production Facility exists,**

for the purposes specified in the Verification Annex to the Convention.

**(2) An Inspection Team may undertake a Challenge Inspection of any Facility or location pursuant to Article IX and such inspection shall be undertaken in accordance with the provisions of the Verification Annex to the Convention.**

**(3) The Inspection Team may, while carrying out a Challenge Inspection, be accompanied by an Observer to observe the conduct of the Challenge Inspection.**

**(4) An enforcement officer shall accompany the Inspector or Inspection Team to observe all verification activities carried out by the Inspector or Inspection Team and to provide the Inspector or Inspection Team, during the inspection, with such clarifications in connection with an ambiguity that may arise during an inspection as may be necessary to remove such ambiguity.**

**(5) Every Inspector or Inspection Team shall have—**

**(a) the right to interview any facility personnel in the presence of enforcement officer for the purpose of establishing relevant facts;**

**(b) the right to request clarifications in connection with ambiguities that may arise during inspection;**

**(c) the right to demand production of such documentation and records which are relevant and necessary for the purpose of inspection;**

(d) the right to take photographs of an object or a building located within the Inspection Site if question relating to that object or building is not resolved;

(e) the right to draw samples, perform on site analysis of such samples; and

(f) such other rights as are provided under the Convention.

(6) An Inspector or Inspection Team shall, during the conduct of verification activities or Challenge Inspection, enjoy the privileges and immunities referred to in Part II of the Verification Annex to the Convention.

(7) No sample drawn under clause (e) of sub-section (5) by an Inspector or Inspection Team shall be sent for analysis in any laboratory situated outside the territory of India.

**20. (1)** Any enforcement officer shall have the right to enter with such assistance as he considers necessary, any building or place for the purpose of—

(a) verifying the correctness of any information, declaration or return furnished under sub-section (1) of section 12;

(b) performing any of the functions of the National Authority entrusted to him;

(c) determining whether any provisions of this Act or the rules made thereunder or any direction given under this Act is being complied with by any person engaged in the production, processing, acquisition, consumption, transfer, import, export or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or engaged in the production of any Discrete Organic Chemical including Discrete Organic Chemical containing elements of phosphorous, sulphur or fluorine;

(d) examining or testing any facility, record, document or any other material object, as the case may be, or conducting a search of any place or person;

(e) conducting a search where a warrant under sub-section (1) of section 22 is addressed to such enforcement officer or he is so authorised under sub-section (2) of that section.

(2) Any enforcement officer shall have a right to accompany the Inspector or Inspection Team as a representative of India during inspection in India.

**21. If any person wilfully—**

(a) refuses without reasonable excuse to comply with the request made by the Inspector or Inspection Team for the purpose of facilitating the conduct of that inspection in accordance with the Verification Annex to the Convention;

(b) delays or obstructs any member of the Inspection Team, Inspector, enforcement officer or the Observer in the conduct of inspection;

(c) removes or tampers with any on-site instrument or Approved Equipment installed by the enforcement officer, Inspector or Inspection Team with the intention of adversely affecting the operation of such instrument or Equipment,

he shall be guilty of an offence punishable under this Act.

Certain acts to constitute an offence.

**22. (1)** A Metropolitan Magistrate or a Judicial Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under Chapter VI or for the search, whether by day or by night, of any industry, building, conveyance or place in which he has reason to believe that any goods in relation to which an offence punishable under Chapter VI has been committed or any document or other goods which may furnish evidence of the commission of such offence is kept or concealed.

Power to issue warrant and authorisation.

(2) Any enforcement officer or such other officer of the National Authority as is empowered in this behalf by general or special order by the Central Government or any such officer of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any person has committed an offence punishable under Chapter VI or any goods in relation to which an offence punishable under Chapter VI has been committed or any document or other goods which may furnish evidence of the commission of such offence has been kept or concealed in any industry, building, conveyance or place, may authorise any officer subordinate to him to arrest such person or search an industry or a building, conveyance or place, whether by day or by night, or himself arrest a person or search an industry or a building, conveyance or place.

(3) The officer to whom a warrant under sub-section (1) is addressed and the officer who authorised the arrest or search or such subordinate officer who is so authorised under sub-section (2) shall have all the powers of an officer acting under section 23.

**Power of entry,  
search, seizure  
and arrest without  
warrant or  
authorisation.**

23. (1) Any such subordinate officer to the enforcement officer as is authorised in this behalf by general or special order by the Central Government or any such subordinate officer to the enforcement officer as is authorised in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing, that any goods in relation to which an offence punishable under Chapter VI has been committed or any document or goods which may furnish evidence of the commission of such offence is kept or concealed in any industry, building, conveyance or place, may, between sunrise and sunset,—

(a) enter into and search any such industry, building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such Chemical Weapons, Chemical Weapons Production Facilities, riot control agents, Old Chemical Weapons, Abandoned Chemical Weapons, Toxic Chemicals or Precursors or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine, all goods and any conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other goods which he has reason to believe may furnish evidence of the commission of any offence punishable under Chapter VI relating to such Chemical Weapons, Chemical Weapons Production Facilities, riot control agents, Old Chemical Weapons, Abandoned Chemical Weapons, Toxic Chemicals, Precursors or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine; and

(d) detain and search, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under Chapter VI relating to such Chemical Weapons, Chemical Weapons Production Facilities, riot control agents, Old Chemical Weapons, Abandoned Chemical Weapons, Toxic Chemicals or Pre-cursors or Discrete Organic Chemicals including those Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine:

Provided that if such subordinate officer has reason to believe that search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such industry, building, conveyance or place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate superior officer.

**24.** Any subordinate officer to the enforcement officer as is authorised in section 23 may—

(a) seize, in any public place or in transit, any goods, in relation to which he has reason to believe an offence punishable under Chapter VI has been committed, and, along with such goods, any conveyance liable to confiscation under this Act, and any document or goods which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter VI relating to such goods;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under Chapter VI, and, if such person has any Toxic Chemical or Precursor or any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

*Explanation.*—For the purposes of this section, the expression “public place” includes any public conveyance, shop, hotel or other place intended for use by, or accessible to, the public.

**25.** (1) Where it is not practicable to seize any goods which are liable to confiscation under this Act, any officer authorised under section 23 may serve on the owner or person in possession of the goods, an order that he shall not remove, part with or otherwise deal with the goods except with the previous permission of such officer.

(2) For effecting seizure and confiscation, the owner, the plant operator and other officials of the facility shall provide all assistance with regard to safety in handling of goods.

**26.** Any subordinate officer authorised under section 23 may, if he has reason to suspect that any conveyance is, or is likely to be, used for the transport of any goods in respect of which he suspects that any provision of this Act has been, or is being, or is likely to be, contravened at any time, stop such conveyance, or in the case of an aircraft compel it to land and—

- (a) rummage and search the conveyance or part thereof;
- (b) examine and search any goods in the conveyance;
- (c) if it becomes necessary to stop the conveyance, he may use all lawful means for stopping it.

**27.** (1) When any subordinate officer authorised under section 23 or any subordinate officer exercising power in pursuance of sub-section (3) of section 22 is about to search any person under the provisions of section 22 or section 23 or section 24, he shall, if such person so requires, take such person without unnecessary delay to the nearest enforcement officer or the officer authorising such search or the nearest Magistrate.

(2) If such requisition is made, the officer may detain the person until he can bring him before the officer or the Magistrate referred to in sub-section (1).

(3) The officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) No female shall be searched by anyone excepting a female.

**28.** The provisions of the Code of Criminal Procedure, 1973 shall apply, in so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act.

Power of seizure  
and arrest in  
public places.

Procedure where  
seizure of goods  
liable to  
confiscation not  
possible.

Power to stop and  
search  
conveyance.

Conditions under  
which search of  
persons be  
conducted.

Provisions of Act  
2 of 1974 to apply  
to arrests,  
searches and  
seizures.

Disposal of persons arrested and goods seized:

29. (1) Any officer arresting a person under section 22 or section 23 or section 24 shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested and goods seized under warrant issued under sub-section (1) of section 22 shall be forwarded without unnecessary delay to the Magistrate by whom the warrant was issued.

(3) Every person arrested and goods seized under sub-section (2) of section 22 or section 23 or section 24 shall be forwarded without unnecessary delay to—

(a) the officer in charge of the nearest police station; or

(b) the officer empowered under section 30.

(4) The authority or officer to whom any person or goods is forwarded under sub-section (2) or sub-section (3) shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or goods.

Power to invest officers of the National Authority, etc., with powers of an officer in charge of a police station.

30. (1) The Central Government may, after consultation with the State Government, by notification published in the Official Gazette, invest any officer of the National Authority with the powers of an officer in charge of a police station for the investigation of the offences under this Act.

(2) The State Government may, by notification published in the Official Gazette, invest any officer of gazetted rank or any class of such officers with the powers of an officer in charge of a police station for the investigation of the offences under this Act.

Police to take charge of goods seized and delivered.

31. An officer in charge of a police station shall take charge of and keep in safe custody, pending the orders of the Magistrate, all goods seized under this Act within the local area of that police station and which may be delivered to him, and shall allow any officer who may accompany such goods to the police station or who may be deputed for the purpose, to affix his seal to such goods or to take samples of and from them and all samples so taken shall also be sealed with a seal of the officer in charge of the police station.

Report of arrest and seizure.

32. Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate superior officer.

Liability of Toxic Chemicals, Precursors and conveyance to confiscation.

33. (1) Whenever any offence punishable under Chapter VI has been committed, the goods or in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

(2) Any Toxic Chemical or Precursor lawfully produced, imported into India, transported, used, purchased or sold along with, or in addition to, any goods which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any goods liable to confiscation under sub-section (1), is found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation.

(3) Any conveyance used in carrying any goods liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the conveyance proves that it was used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance and that each of them had taken all reasonable precautions against such use.

Confiscation of Goods used for concealing Toxic Chemicals or Precursors.

34. Any Goods used for concealing any goods which is liable to confiscation under this Act shall also be liable to confiscation.

*Explanation.*—In this section, “Goods” includes conveyance as a means of transport.

Confiscation of sale proceeds of goods.

35. Where any goods is sold by a person having knowledge or reason to believe that the goods is liable to confiscation under this Act, the sale proceeds thereof shall also be liable to confiscation.

**36.** (1) In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any goods seized under this Act is liable to confiscation and, if it decides that the goods is so liable, it may order confiscation accordingly.

Procedure in making confiscation.

(2) Where any goods seized under this Act appears to be liable to confiscation under section 33 or section 34 or section 35, but the person who committed the offence therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of any goods shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim.

(3) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

**37:** Any subordinate officer authorised under section 23 may, during the course of any inquiry in connection with the contravention of any provision of this Act,—

Power to call for information, etc.

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made or direction issued thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to the enquiry;

(c) examine any person acquainted with the facts and circumstances of the case.

**38.** No enforcement officer, subordinate officer to enforcement officer or officer of the National Authority or the State Government or officer subordinate to such officer as is mentioned in sub-section (2) of section 22 acting in exercise of powers vested in him under any provision of this Act or any such order made thereunder shall be compelled to say when he got any information as to the commission of any offence.

Information as to commission of offences.

## CHAPTER VI

### OFFENCES AND PENALTIES

**39. Whoever—**

Punishment for failure to register.

(a) before the commencement of this Act had been engaged in development, production, processing, acquisition, consumption, transfer, import, export or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or engaged in the production of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine and continues to be, after such commencement, so engaged; or

(b) after the commencement of this Act produces, processes, acquires, consumes, transfers, imports, exports or uses any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or produces any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine,

without complying with the provisions of sub-section (1) or, as the case may be, sub-section (2) of section 18 shall, unless his name is registered in accordance with the provisions of that section, be punishable with fine which may extend to one lakh rupees, and in the case of continuing default, with a further fine which may extend to one lakh rupees every day during which such default continues after conviction for the first default or with imprisonment for a term which may extend to three years, or with both.

Punishment for contravention in relation to development, production, etc., of Chemical Weapons or riot control agents, etc.

Punishment for contravention in relation to Toxic Chemicals, etc., listed in Schedule 1.

Punishment for contravention in relation to transfer of Toxic Chemicals, etc., listed in Schedule 2.

Punishment for contravention in relation to export or import of Toxic Chemicals, etc.

Punishment for contravention in relation to disclosure of confidential information.

Punishment for contravention in relation to denial of access.

Punishment for contravention in relation to failure to furnish information, declaration or return.

**40.** Whoever, in contravention of any provision of this Act, develops, produces, otherwise acquires, stockpiles, retains or uses Chemical Weapons, transfers, directly or indirectly, any Chemical Weapon to any person, uses any riot control agent as a method of warfare, engages in any military preparations to use Chemical Weapons, assists, encourages or induces in any manner any person to engage in the use of any riot control agent as a method of warfare or any other activity prohibited to a State Party under the Convention, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.

**41.** Whoever, in contravention of any provision of this Act, produces, acquires, retains, transfers or uses any Toxic Chemical or Precursor listed in Schedule 1 in the Annex on Chemicals to the Convention for the purposes prohibited to a State Party under the Convention or transfers any Toxic Chemical or Precursor listed in Schedule 1 in the Annex on Chemicals to the Convention outside India, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.

**42.** Whoever, in contravention of any provision of this Act transfers to or receives from any person who is not a citizen of a State Party any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the Convention, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.

**43.** Whoever, in contravention of any provision of this Act, exports from or imports into India any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.

**44.** Whoever, in contravention of any provision of this Act, divulges any confidential information obtained by the National Authority from any declaration or return furnished or any statement made, information supplied to, or obtained by, an enforcement officer during the course of any inspection carried out under the provisions of this Act to any other person, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.

**45.** Whoever does not comply with the obligations related to inspection activity under the Convention or delays or obstructs any Inspection Team or Inspector or enforcement officer or Observer in performance of his functions or wilfully removes or tampers with any installed on site instrument or any Approved Equipment shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.

**46.** Any person who being required by or under this Act to furnish any—

- (a) information;
- (b) declaration; or
- (c) return,

fails to furnish such information, declaration or return shall be punishable with fine which may extend to one lakh rupees, and in the case of continuing default, with a further fine which may extend to one lakh rupees for every day during which such default continues after conviction for the first such default, or with imprisonment for a term which may extend to three years, or with both.

2 of 1974.

**47.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under section 46 shall be cognizable.

Offence  
punishable under  
section 46 to be  
cognizable.

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

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 Chapter VI 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 of the firm.

**49.** No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Central Government or the authority notified by the Central Government, in the Official Gazette, to be competent to sanction prosecution of the offences under this Act.

Prosecution of  
offences.

**50. (1)** Any person aggrieved by any direction of the National Authority issued under section 10 may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the direction appealed against and by such fee as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

**51.** Notwithstanding anything contained in this Act, the provisions of the Convention in so far as they relate to—

(a) restriction or reporting;

(b) inspection; or

(c) declaration and verification,

shall not apply to any mixtures containing such concentration of any Chemicals specified in Schedule 2 or Schedule 3 in the Annex on Chemicals to the Convention as the Central Government may, by notification in the Official Gazette, specify.

Provisions of  
Convention not to  
apply to certain  
mixtures.

Protection of action taken in good faith.

Power to delegate.

Officers to be public servants.

Removal of difficulties.

Power to make rules.

## CHAPTER VII

### MISCELLANEOUS

**52.** No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any officer of the Central Government or of a State Government or the Chairperson, Directors, officers and other employees of the National Authority or any other person exercising any powers or discharging any functions or performing any duties under this Act, for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

**53. (1)** The Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act (except the power to make rules under section 56) as it may deem necessary or expedient, to the National Authority or the Committee referred to in section 11.

**(2)** The State Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act, as it may deem necessary or expedient, to any authority or officer of that Government.

**54.** The Chairperson, Directors, officers and other employees of the National Authority or any other person exercising any powers or discharging any functions under this Act shall be deemed to be the public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

**55.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

**56. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

**(a)** the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the Directors under sub-section (3) of section 6, and the salary and allowances payable to and other terms and conditions of service of officers and other employees of the National Authority under sub-section (4) of that section;

**(b)** other functions of the National Authority that may be prescribed under clause (v) of sub-section (2) of section 7;

**(c)** the form of application, the particulars to be contained in the application form, the form of certificate of registration, the manner of making application, the amount of fee payable, the procedure to be followed in granting or cancelling certificate of registration under sub-section (3) of section 18 and the period for which a renewed certificate of registration may be issued and the amount of fee payable therefor under sub-section (5) of that section;

**(d)** the time within which appeal may be preferred under sub-section (1) of section 50;

**(e)** the form for making appeal and the fee to be accompanied therewith under sub-section (3) of section 50;

- (f) the procedure for disposing of appeal under sub-section (4) of section 50;
- (g) any other matter which is to be, or may be, prescribed.

(3) Every notification issued under sub-section (2) of section 3, any declaration made under section 5, every order made under section 55 and every rule made under section 56 shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, order or rule or both Houses agree that the notification, order or rule should not be issued or made, the notification, order or 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 notification, order or rule.

## THE SCHEDULE

(See section 3)

## PROVISIONS OF THE CONVENTION WHICH SHALL HAVE THE FORCE OF LAW

## ARTICLE 1

## GENERAL OBLIGATIONS

1. Each State Party to this Convention undertakes never under any circumstances:
  - (a) To develop, produce, otherwise acquire, stockpile or retain Chemical Weapons, or transfer, directly or indirectly, Chemical Weapons to anyone;
  - (b) To use Chemical Weapons;
  - (c) To engage in any military preparations to use Chemical Weapons;
  - (d) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.
2. Each State Party undertakes to destroy Chemical Weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.
3. Each State Party undertakes to destroy all Chemical Weapons it abandoned on the territory of another State Party, in accordance with the provisions of this Convention.
4. Each State Party undertakes to destroy any Chemical Weapons production facilities it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.
5. Each State Party undertakes not to use riot control agents as a method of warfare.

**8. "Chemical Weapons Production Facility":**

(a) Means any equipment, as well as any building housing such equipment, that was designed, constructed or used at any time since 1 January 1946:

(i) As part of the stage in the production of chemicals (final technological stage) where the material flows would contain, when the equipment is in operation:

(I) Any chemical listed in Schedule I in the Annex on Chemicals; or

(2) Any other chemical that has no use, above 1 tonne per year on the territory of a State Party or in any other place under the jurisdiction or control of a State Party, for purposes not prohibited under this Convention, but can be used for Chemical Weapons purposes; or

(ii) For filling Chemical Weapons, including, *inter alia*, the filling of chemicals listed in Schedule I into munitions, devices or bulk storage containers; the filling of chemicals into containers that form part of assembled binary munitions and devices or into chemical submunitions that form part of assembled unitary munitions and devices, and the loading of the containers and chemical submunitions into the respective munitions and devices;

(b) Does not mean:

(i) Any facility having a production capacity for synthesis of chemicals specified in sub-paragraph (a) (i) that is less than 1 tonne;

(ii) Any facility in which a chemical specified in sub-paragraph (a) (i) is or was produced as an unavoidable by-product of activities for purposes not prohibited under this Convention, provided that the chemical does not exceed 3 per cent. of the total product and that the facility is subject to declaration and inspection under the Annex on Implementation and Verification (hereinafter referred to as "Verification Annex"); or

(iii) The single small-scale facility for production of chemicals listed in Schedule I for purposes not prohibited under this Convention as referred to in Part VI of the Verification Annex.

**9. "Purposes Not Prohibited Under this Convention" means:**

(a) Industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(b) Protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

(c) Military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;

(d) Law enforcement including domestic riot control purposes.

10. "Production Capacity" means: The annual quantitative potential for manufacturing a specific chemical based on the technological process actually used or, if the process is not yet operational, planned to be used at the relevant facility. It shall be deemed to be equal to the nameplate capacity or, if the nameplate capacity is not available, to the design capacity. The nameplate capacity is the product output under conditions optimized for maximum quantity for the production facility, as demonstrated by one or more test-runs. The design capacity is the corresponding theoretically calculated product output.

## ARTICLE II

## DEFINITIONS AND CRITERIA

For the purposes of this Convention:

1. "Chemical Weapons" means the following, together or separately:

(a) Toxic Chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;

(b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in sub-paragraph (a), which would be released as a result of the employment of such munitions and devices;

(c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in sub-paragraph (b).

2. "Toxic Chemical" means: Any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(For the purpose of implementing this Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)

3. "Precursor" means: Any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multi-component chemical system.

(For the purpose of implementing this Convention, precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)

4. "Key Component of Binary or Multi-component Chemical Systems" (hereinafter referred to as "key component") means: The Precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multi-component system.

5. "Old chemical weapons" means:

(a) Chemical weapons which were produced before 1925; or

(b) Chemical weapons produced in the period between 1925 and 1946 that have deteriorated to such extent that they can no longer be used as chemical weapons.

6. "Abandoned Chemical Weapons" means: Chemical weapons, including old chemical weapons, abandoned by a State after 1 January 1925 on the territory of another State without the consent of the latter.

7. "Riot Control Agent" means: Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

11. "Organization" means: The Organization for the Prohibition of Chemical Weapons established pursuant to Article VIII of this Convention.

12. For the purposes of Article VI:

(a) "Production" of a chemical means its formation through chemical reaction;

(b) "Processing" of a chemical means a physical process, such as formulation, extraction and purification, in which a chemical is not converted into another chemical;

(c) "Consumption" of a chemical means its conversion into another chemical *via* a chemical reaction.

**ARTICLE III****DECLARATIONS**

1. Each State Party shall submit to the Organization, not later than 30 days after this Convention enters into force for it, the following declarations, in which it shall:

(a) With respect to chemical weapons:

(i) Declare whether it owns or possesses any chemical weapons, or whether there are any chemical weapons located in any place under its jurisdiction or control;

(ii) Specify the precise location, aggregate quantity and detailed inventory of chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (A), paragraphs 1 to 3, of the Verification Annex, except for those chemical weapons referred to in sub-paragraph (iii);

(iii) Report any chemical weapons on its territory that are owned and possessed by another State and located in any place under the jurisdiction or control of another State, in accordance with Part IV (A), paragraph 4, of the Verification Annex;

(iv) Declare whether it has transferred or received, directly or indirectly, any chemical weapons since 1 January 1946 and specify the transfer or receipt of such weapons, in accordance with Part IV (A), paragraph 5, of the Verification Annex;

(v) Provide its general plan for destruction of chemical weapons that it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (A), paragraph 6, of the Verification Annex;

(b) With respect to old chemical weapons and abandoned chemical weapons:

(i) Declare whether it has on its territory old chemical weapons and provide all available information in accordance with Part IV (B), paragraph 3, of the Verification Annex;

(ii) Declare whether there are abandoned chemical weapons on its territory and provide all available information in accordance with Part IV (B), paragraph 8, of the Verification Annex;

(iii) Declare whether it has abandoned chemical weapons on the territory of other States and provide all available information in accordance with Part IV (B), paragraph 10, of the Verification Annex;

(c) With respect to chemical weapons production facilities:

(i) Declare whether it has or has had any chemical weapons production facility under its ownership or possession, or that is or has been located in any place under its jurisdiction or control at any time since 1 January 1946;

(ii) Specify any chemical weapons production facility it has or has had under its ownership or possession or that is or has been located in any place under its jurisdiction or control at any time since 1 January 1946, in accordance with Part V, paragraph 1, of the Verification Annex, except for those facilities referred to in sub-paragraph (iii);

(iii) Report any chemical weapons production facility on its territory that another State has or has had under its ownership and possession and that is or has been located in any place under the jurisdiction or control of another State at any time since 1 January 1946, in accordance with Part V, paragraph 2, of the Verification Annex;

(iv) Declare whether it has transferred or received, directly or indirectly, any equipment for the production of chemical weapons since 1 January 1946 and specify the transfer or receipt of such equipment, in accordance with Part V, paragraphs 3 or 5, of the Verification Annex;

(v) Provide its general plan for destruction of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, in accordance with Part V, paragraph 6, of the Verification Annex;

(vi) Specify actions to be taken for closure of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, in accordance with Part V, paragraph 1 (i), of the Verification Annex;

(vii) Provide its general plan for any temporary conversion of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, into a chemical weapons destruction facility, in accordance with Part V, paragraph 7, of the Verification Annex;

(d) With respect to other facilities, specify the precise location, nature and general scope of activities of any facility or establishment under its ownership or possession, or located in any place under its jurisdiction or control, and that has been designed, constructed or used since 1 January 1946 primarily for development of chemical weapons. Such declaration shall include, *inter alia*, laboratories and test and evaluation sites;

(e) With respect to riot control agents specify the chemical name, structural formula and Chemical Abstracts Service (CAS) registry number, if assigned, of each chemical it holds for riot control purposes. This declaration shall be updated not later than 30 days after any change becomes effective.

2. The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1 January 1977 and which remain buried, or which had been dumped at sea before 1 January 1985.

## ARTICLE IV

### CHEMICAL WEAPONS

1. The provisions of this Article and the detailed procedures for its implementation shall apply to all chemical weapons owned or possessed by a State Party, or that are located in any place under its jurisdiction or control, except old chemical weapons and abandoned chemical weapons to which Part IV (B) of the Verification Annex applies.
2. Detailed procedures for the implementation of this Article are set forth in the Verification Annex.
3. All locations at which chemical weapons specified in paragraph 1 are stored or destroyed shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments, in accordance with Part IV (A) of the Verification Annex.
4. Each State Party shall, immediately after the declaration under Article III, paragraph 1 (a), has been submitted, provide access to chemical weapons specified in paragraph 1 for the purpose of systematic verification of the declaration through on-site inspection. Thereafter, each State Party shall not remove any of these chemical weapons, except to a chemical weapons destruction facility. It shall provide access to such chemical weapons, for the purpose of systematic on-site verification.
5. Each State Party shall provide access to any chemical weapons destruction facilities and their storage areas, that it owns or possesses, or that are located in any place under its jurisdiction or control, for the purpose of systematic verification through on-site inspection and monitoring with on-site instruments.
6. Each State Party shall destroy all chemical weapons specified in paragraph 1 pursuant to the Verification Annex and in accordance with the agreed rate and sequence of destruction (hereinafter referred to as "order of destruction"). Such destruction shall begin not later than two years' after this Convention enters into force for it and shall finish not later than 10 years after entry into force of this Convention. A State Party is not precluded from destroying such chemical weapons at a faster rate.
7. Each State Party shall:
  - (a) Submit detailed plans for the destruction of chemical weapons specified in paragraph 1 not later than 60 days before each annual destruction period begins, in accordance with Part IV (A), paragraph 29, of the Verification Annex; the detailed plans shall encompass all stocks to be destroyed during the next annual destruction period;
  - (b) Submit declarations annually regarding the implementation of its plans for destruction of chemical weapons specified in paragraph 1, not later than 60 days after the end of each annual destruction period; and
  - (c) Certify, not later than 30 days after the destruction process has been completed, that all chemical weapons specified in paragraph 1 have been destroyed.
8. If a State ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 6, it shall destroy chemical weapons specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.
9. Any chemical weapons discovered by a State Party after the initial declaration of chemical weapons shall be reported, secured and destroyed in accordance with Part IV (A) of the Verification Annex.
10. Each State Party, during transportation, sampling, storage and destruction of chemical weapons, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall transport, sample, store and destroy

chemical weapons in accordance with its national standards for safety and emissions.

11. Any State Party which has on its territory chemical weapons that are owned or possessed by another State, or that are located in any place under the jurisdiction or control of another State, shall make the fullest efforts to ensure that these chemical weapons are removed from its territory not later than one year after this Convention enters into force for it. If they are not removed within one year, the State Party may request the Organization and other States Parties to provide assistance in the destruction of these chemical weapons.

12. Each State Party undertakes to cooperate with other States Parties that request information or assistance on a bilateral basis or through the Technical Secretariat regarding methods and technologies for the safe and efficient destruction of chemical weapons.

13. In carrying out verification activities pursuant to this Article and Part IV (A) of the Verification Annex, the Organization shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons storage and their destruction among States Parties.

To this end, the Executive Council shall decide to limit verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

(a) Verification provisions of such an agreement are consistent with the verification provisions of this Article and Part IV (A) of the Verification Annex;

(b) Implementation of such an agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and

(c) Parties to the bilateral or multilateral agreement keep the Organization fully informed about their verification activities.

14. If the Executive Council takes a decision pursuant to paragraph 13, the Organization shall have the right to monitor the implementation of the bilateral or multilateral agreement.

15. Nothing in paragraphs 13 and 14 shall affect the obligations of a State Party to provide declarations pursuant to Article III, this Article and Part IV (A) of the Verification Annex.

16. Each State Party shall meet the costs of destruction of chemical weapons it is obliged to destroy. It shall also meet the costs of verification of storage and destruction of these chemical weapons unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organization pursuant to paragraph 13, the costs of complementary verification and monitoring by the Organization shall be paid in accordance with the United Nations scale of assessment, as specified in Article VIII, paragraph 7.

17. The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1 January 1977 and which remain buried, or which had been dumped at sea before 1 January 1985.

**ARTICLE V****CHEMICAL WEAPONS PRODUCTION FACILITIES**

1. The provisions of this Article and the detailed procedures for its implementation shall apply to any and all chemical weapons production facilities owned or possessed by a State Party, or that are located in any place under its jurisdiction or control.
2. Detailed procedures for the implementation of this Article are set forth in the Verification Annex.
3. All chemical weapons production facilities specified in paragraph 1 shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with Part V of the Verification Annex.
4. Each State Party shall cease immediately all activity at chemical weapons production facilities specified in paragraph 1, except activity required for closure.
5. No State Party shall construct any new chemical weapons production facilities or modify any existing facilities for the purpose of chemical weapons production or for any other activity prohibited under this Convention.
6. Each State Party shall, immediately after the declaration under Article III, paragraph 1 (c), has been submitted, provide access to chemical weapons production facilities specified in paragraph 1, for the purpose of systematic verification of the declaration through on-site inspection.
7. Each State Party shall:
  - (a) Close, not later than 90 days after this Convention enters into force for it, all chemical weapons production facilities specified in paragraph 1, in accordance with Part V of the Verification Annex, and give notice thereof; and
  - (b) Provide access to chemical weapons production facilities specified in paragraph 1, subsequent to closure, for the purpose of systematic verification through on-site inspection and monitoring with on-site instruments in order to ensure that the facility remains closed and is subsequently destroyed.
8. Each State Party shall destroy all chemical weapons production facilities specified in paragraph 1 and related facilities and equipment, pursuant to the Verification Annex and in accordance with an agreed rate and sequence of destruction (hereinafter referred to as "order of destruction"). Such destruction shall begin not later than one year after this Convention enters into force for it, and shall finish not later than ten years after entry into force of this Convention. A State Party is not precluded from destroying such facilities at a faster rate.
9. Each State Party shall:
  - (a) Submit detailed plans for destruction of chemical weapons production facilities specified in paragraph 1, not later than 180 days before the destruction of each facility begins;
  - (b) Submit declarations annually regarding the implementation of its plans for the destruction of all chemical weapons production facilities specified in paragraph 1, not later than 90 days after the end of each annual destruction period; and
  - (c) Certify, not later than 30 days after the destruction process has been completed, that all chemical weapons production facilities specified in paragraph 1 have been destroyed.
10. If a State ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 8, it shall destroy chemical weapons production facilities specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.

11. Each State Party, during the destruction of chemical weapons production facilities, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall destroy chemical weapons production facilities in accordance with its national standards for safety and emissions.

12. Chemical weapons production facilities specified in paragraph 1 may be temporarily converted for destruction of chemical weapons in accordance with Part V, paragraphs 18 to 25, of the Verification Annex. Such a converted facility must be destroyed as soon as it is no longer in use for destruction of chemical weapons but, in any case, not later than 10 years after entry into force of this Convention.

13. A State Party may request, in exceptional cases of compelling need, permission to use a chemical weapons production facility specified in paragraph 1 for purposes not prohibited under this Convention. Upon the recommendation of the Executive Council, the Conference of the States Parties shall decide whether or not to approve the request and shall establish the conditions upon which approval is contingent in accordance with Part V, Section D, of the Verification Annex.

14. The chemical weapons production facility shall be converted in such a manner that the converted facility is not more capable of being reconverted into a chemical weapons production facility than any other facility used for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes not involving chemicals listed in Schedule 1.

15. All converted facilities shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with Part V, Section D, of the Verification Annex.

16. In carrying out verification activities pursuant to this Article and Part V of the Verification Annex, the Organization shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons production facilities and their destruction among States Parties.

To this end, the Executive Council shall decide to limit the verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

- (a) Verification provisions of such an agreement are consistent with the verification provisions of this Article and Part V of the Verification Annex;
- (b) Implementation of the agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and
- (c) Parties to the bilateral or multilateral agreement keep the Organization fully informed about their verification activities.

17. If the Executive Council takes a decision pursuant to paragraph 16, the Organization shall have the right to monitor the implementation of the bilateral or multilateral agreement.

18. Nothing in paragraphs 16 and 17 shall affect the obligation of a State Party to make declarations pursuant to Article III, this Article and Part V of the Verification Annex.

19. Each State Party shall meet the costs of destruction of chemical weapons production facilities it is obliged to destroy. It shall also meet the costs of verification under this Article unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organization pursuant to paragraph 16, the costs of complementary verification and monitoring by the Organization shall be paid in accordance with the United Nations scale of assessment, as specified in Article VIII, paragraph 7.

## ARTICLE VI

### ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION

1. Each State Party has the right, subject to the provisions of this Convention, to develop, produce, otherwise acquire, retain, transfer and use toxic chemicals and their precursors for purposes not prohibited under this Convention.
2. Each State Party shall adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used within its territory or in any other place under its jurisdiction or control for purposes not prohibited under this Convention. To this end, and in order to verify that activities are in accordance with obligations under this Convention, each State Party shall subject toxic chemicals and their precursors listed in Schedules 1, 2 and 3 of the Annex on Chemicals, facilities related to such chemicals, and other facilities as specified in the Verification Annex, that are located on its territory or in any other place under its jurisdiction or control, to verification measures as provided in the Verification Annex.
3. Each State Party shall subject chemicals listed in Schedule 1 (hereinafter referred to as "Schedule 1 chemicals") to the prohibitions on production, acquisition, retention, transfer and use as specified in Part VI of the Verification Annex. It shall subject Schedule 1 chemicals and facilities specified in Part VI of the Verification Annex to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with that Part of the Verification Annex.
4. Each State Party shall subject chemicals listed in Schedule 2 (hereinafter referred to as "Schedule 2 chemicals") and facilities specified in Part VII of the Verification Annex to data monitoring and on-site verification in accordance with that Part of the Verification Annex.
5. Each State Party shall subject chemicals listed in Schedule 3 (hereinafter referred to as "Schedule 3 chemicals") and facilities specified in Part VIII of the Verification Annex to data monitoring and on-site verification in accordance with that Part of the Verification Annex.
6. Each State Party shall subject facilities specified in Part IX of the Verification Annex to data monitoring and eventual on-site verification in accordance with that Part of the Verification Annex unless decided otherwise by the Conference of the States Parties pursuant to Part IX, paragraph 22, of the Verification Annex.
7. Not later than thirty days after this Convention enters into force for it, each State Party shall make an initial declaration on relevant chemicals and facilities in accordance with the Verification Annex.
8. Each State Party shall make annual declarations regarding the relevant chemicals and facilities in accordance with the Verification Annex.
9. For the purpose of on-site verification, each State Party shall grant to the inspectors access to facilities as required in the Verification Annex.
10. In conducting verification activities, the Technical Secretariat shall avoid undue intrusion into the State Party's chemical activities for purposes not prohibited under this Convention and, in particular, abide by the provisions set forth in the Annex on the Protection of Confidential Information (hereinafter referred to as "Confidentiality Annex").
11. The provisions of this Article shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

**ARTICLE VII**  
**NATIONAL IMPLEMENTATION MEASURES**

**General undertakings**

1. Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligation under this Convention. In particular, it shall:

- (a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity;
- (b) Not permit in any place under its control any activity prohibited to a State Party under this Convention; and
- (c) Extend its penal legislation enacted under sub-paragraph (a) to any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

2. Each State Party shall cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1.

3. Each State Party, during the implementation of its obligations under this Convention, shall assign the highest priority to ensuring the safety of people and to protecting the environment, and shall cooperate as appropriate with other States Parties in this regard.

**Relations between the State Party and the Organization**

4. In order to fulfil its obligation under this Convention, each State Party shall designate or establish a National Authority to serve as the national focal point for effective liaison with the Organization and other States Parties. Each State Party shall notify the Organization of its National Authority at the time that this Convention enters into force for it.

5. Each State Party shall inform the Organization of the legislative and administrative measures taken to implement this Convention.

6. Each State Party shall treat as confidential and afford special handling to information and data that it receives in confidence from the Organization in connection with the implementation of this Convention.

It shall treat such information and data exclusively in connection with its rights and obligations under this Convention and in accordance with the provisions set forth in the Confidentiality Annex.

7. Each State Party undertakes to cooperate with the Organization in the exercise of all its functions and in particular to provide assistance to the Technical Secretariat.

**ARTICLE VIII****THE ORGANIZATION****A. GENERAL PROVISIONS**

1. The States Parties to this Convention hereby establish the Organization for the Prohibition of Chemical Weapons to achieve the object and purpose of this Convention, to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among States Parties.

2. All States Parties to this Convention shall be members of the Organization. A State Party shall not be deprived of its membership in the Organization.

3. The seat of the Headquarters of the Organization shall be The Hague, Kingdom of the Netherlands.

4. There are hereby established as the organs of the Organization: the Conference of the States Parties, the Executive Council, and the Technical Secretariat.

5. The Organization shall conduct its verification activities provided for under this Convention in the least intrusive manner possible consistent with the timely and efficient accomplishment of their objectives. It shall request only the information and data necessary to fulfil its responsibilities under this Convention. It shall take every precaution to protect the confidentiality of information on civil and military activities and facilities coming to its knowledge in the implementation of this Convention and, in particular, shall abide by the provisions set forth in the Confidentiality Annex.

6. In undertaking its verification activities the Organization shall consider measures to make use of advances in science and technology.

7. The costs of the Organizations' activities shall be paid by States Parties in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nations and this Organization, and subject to the provisions of Articles IV and V. Financial contributions of States Parties to the Preparatory Commission shall be deducted in an appropriate way from their contributions to the regular budget. The budget of the Organization shall comprise two separate chapters, one relating to administrative and other costs, and one relating to verification costs.

8. A member of the Organization which is in arrears in the payment of its financial contribution to the Organization shall have no vote in the Organization if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

**B. THE CONFERENCE OF THE STATES PARTIES***Composition, procedures and decision-making*

9. The Conference of the States Parties (hereinafter referred to as "the Conference") shall be composed of all members of this Organization. Each member shall have one representative in the Conference, who may be accompanied by alternates and advisers.

10. The first session of the Conference shall be convened by the depositary not later than 30 days after the entry into force of this Convention.

11. The Conference shall meet in regular sessions which shall be held annually unless it decides otherwise.

12. Special sessions of the Conference shall be convened:

(a) When decided by the Conference;

(b) When requested by the Executive Council;

(c) When requested by any member and supported by one-third of the members;

or

(d) In accordance with paragraph 22 to undertake reviews of the operation of this Convention,

Except in the case of sub-paragraph (d), the special session shall be convened not later than 30 days after receipt of the request by the Director-General of the Technical Secretariat, unless specified otherwise in the request.

13. The Conference shall also be convened in the form of an Amendment Conference in accordance with Article XV, paragraph 2.

14. Sessions of the Conference shall take place at the seat of the Organization unless the Conference decides otherwise.

15. The Conference shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next regular session.

16. A majority of the members of the Organization shall constitute a quorum for the Conference.

17. Each member of the Organization shall have one vote in the Conference.

18. The Conference shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible at the end of 24 hours, the Conference shall take the decision by a two-thirds majority of members present and voting unless specified otherwise in this Convention. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Conference by the majority required for decisions on matters of substance.

19. The Conference shall be the principal organ of the Organization. It shall consider any questions, matters or issues within the scope of this Convention, including those relating to the powers and functions of the Executive Council and the Technical Secretariat. It may make recommendations and take decisions on any questions, matters or issues related to this Convention raised by a State Party or brought to its attention by the Executive Council.

20. The Conference shall oversee the implementation of this Convention, and act in order to promote its object and purpose. The Conference shall review compliance with this Convention. It shall also oversee the activities of the Executive Council and the Technical Secretariat and may issue guidelines in accordance with this Convention to either of them in the exercise of their functions.

21. The Conference shall:

(a) Consider and adopt at its regular sessions the report, programme and budget of the Organization, submitted by the Executive Council, as well as consider other reports;

(b) Decide on the scale of financial contributions to be paid by States Parties in accordance with paragraph 7;

(c) Elect the members of the Executive Council;

- (d) Appoint the Director-General of the Technical Secretariat (hereinafter referred to as "the Director-General");
- (e) Approve the rules of procedure of the Executive Council submitted by the latter;
- (f) Establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Convention;
- (g) Foster international cooperation for peaceful purposes in the field of chemical activities;
- (h) Review scientific and technological developments that could affect the operation of this Convention and, in this context, direct the Director-General to establish a Scientific Advisory Board to enable him, in the performance of his functions, to render specialized advice in areas of science and technology relevant to this Convention, to the Conference, the Executive Council or States Parties. The Scientific Advisory Board shall be composed of independent experts appointed in accordance with terms of reference adopted by the Conference;
- (i) Consider and approve at its first session any draft agreements, provisions and guidelines developed by the Preparatory Commission;
- (j) Establish at its first session the voluntary fund for assistance in accordance with Article X;
- (k) Take the necessary measure to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention in accordance with Article XII.

22. The Conference shall not later than one year after the expiry of the fifth and the tenth year after the entry into force of this Convention, and at such other times within that period as may be decided upon, convene in special sessions to undertake reviews of the operation of this Convention. Such reviews shall take into account any relevant scientific and technological developments. At intervals of five years thereafter, unless otherwise decided upon, further sessions of the Conference shall be convened with the same objective.

### C. THE EXECUTIVE COUNCIL

#### *Composition, procedure and decision-making*

23. The Executive Council shall consist of 41 members. Each State Party shall have the right, in accordance with the principle of rotation, to serve on the Executive Council. The members of the Executive Council shall be elected by the Conference for a term of two years. In order to ensure the effective functioning of this Convention, due regard being specially paid to equitable geographical distribution, to the importance of chemical industry, as well as to political and security interests, the Executive Council shall be composed as follows:

(a) Nine States Parties from Africa to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;

(b) Nine States Parties from Asia to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, four members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these four members;

(c) Five States Parties from Eastern Europe to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these five States Parties, one member shall, as a rule, be the State Party with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating this one member;

(d) Seven States Parties from Latin America and the Caribbean to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these seven States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;

(e) Ten States Parties from among Western European and other States to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these ten States Parties, five members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these five members;

(f) One further State Party to be designated consecutively by States Parties located in the regions of Asia and Latin America and the Caribbean. As a basis for this designation it is understood that this State Party shall be a rotating member from these regions.

24. For the first election of the Executive Council 20 members shall be elected for a term of one year, due regard being paid to the established numerical proportions as described in paragraph 23.

25. After the full implementation of Articles IV and V the Conference may, upon the request of a majority of the members of the Executive Council, review the composition of the Executive Council taking into account developments related to the principles specified in paragraph 23 that are governing its composition.

26. The Executive Council shall elaborate its rules of procedure and submit them to the Conference for approval.

27. The Executive Council shall elect its Chairman from among its members.

28. The Executive Council shall meet for regular sessions. Between regular sessions it shall meet as often as may be required for the fulfilment of its powers and functions.

29. Each member of the Executive Council shall have one vote. Unless otherwise specified in this Convention, the Executive Council shall take decisions on matters of substance by a two-thirds majority of all its members. The Executive Council shall take decisions on questions of procedure by a simple majority of all its members. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Executive Council by the majority required for decisions on matters of substance.

#### *Powers and functions*

30. The Executive Council shall be the executive organ of the Organization. It shall be responsible to the Conference. The Executive Council shall carry out the powers and functions entrusted to it under this Convention, as well as those functions delegated to it by the Conference. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference and assure their proper and continuous implementation.

31. The Executive Council shall promote the effective implementation of, and compliance with, this Convention. It shall supervise the activities of the Technical Secretariat, cooperate with the National Authority of each State Party and facilitate consultations and cooperation among States Parties at their request.

32. The Executive Council shall:

(a) Consider and submit to the Conference the draft programme and budget of the Organization;

(b) Consider and submit to the Conference the draft report of the Organization on the implementation of this Convention, the report on the performance of its own activities and such special reports as it deems necessary or which the Conference may request;

(c) Make arrangements for the sessions of the Conference including the preparation of the draft agenda.

33. The Executive Council may request the convening of special session of the Conference.

34. The Executive Council shall:

(a) Conclude agreements or arrangements with States and international Organizations on behalf of the Organization, subject to prior approval by the Conference;

(b) Conclude agreements with States Parties on behalf of the Organization in connection with Article X and supervise the voluntary fund referred to in Article X;

(c) Approve agreements or arrangements relating to the implementation of verification activities, negotiated by the Technical Secretariat with States Parties.

35. The Executive Council shall consider any issue or matter within its competence affecting this Convention and its implementation, including concerns regarding compliance, and cases of non-compliance, and, as appropriate, inform States Parties and bring the issue or matter to the attention of the Conference.

36. In its consideration of doubts or concerns regarding compliance and cases of non-compliance, including, *inter alia*, abuse of the rights provided for under this Convention, the Executive Council shall consult with the States Parties involved and, as appropriate, request the State Party to take measures to redress the situation within a specified time. To the extent that the Executive Council considers further action to be necessary, it shall take, *inter alia*, one or more of the following measures:

(a) Inform all States Parties of the issue or matter;

(b) Bring the issue or matter to the attention of the Conference;

(c) Make recommendations to the Conference regarding measures to redress the situation and to ensure compliance,

The Executive Council shall, in cases of particular gravity and urgency, bring the issue or matter, including relevant information and conclusions, directly to the attention of the United Nations General Assembly and the United Nations Security Council. It shall at the same time inform all States Parties of this step.

#### D. THE TECHNICAL SECRETARIAT

37. The Technical Secretariat shall assist the Conference and the Executive Council in the performance of their functions. The Technical Secretariat shall carry out the verification measures provided for in this Convention. It shall carry out the other functions entrusted to it under this Convention as well as those functions delegated to it by the Conference and the Executive Council.

38. The Technical Secretariat shall:

- (a) Prepare and submit to the Executive Council the draft programme and budget of the Organization;
- (b) Prepare and submit to the Executive Council the draft report of the Organization on the implementation of this Convention and such other reports as the Conference or the Executive Council may request;
- (c) Provide administrative and technical support to the Conference, the Executive Council and subsidiary organs;
- (d) Address and receive communications on behalf of the Organization to and from States Parties on matters pertaining to the implementation of this Convention;
- (e) Provide technical assistance and technical evaluation to States Parties in the implementation of the provisions of this Convention, including evaluation of scheduled and unscheduled chemicals.

39. The Technical Secretariat shall:

- (a) Negotiate agreements or arrangements relating to the implementation of verification activities with States Parties, subject to approval by the Executive Council;
- (b) Not later than 180 days after entry into force of this Convention, coordinate the establishment and maintenance of permanent stockpiles of emergency and humanitarian assistance by States Parties in accordance with Article X, paragraph 7 (b) and (c). The Technical Secretariat may inspect the items maintained for serviceability. Lists of items to be stockpiled shall be considered and approved by the Conference pursuant to paragraph 21 (i) above;
- (c) Administer the voluntary fund referred to in Article X, compile declarations made by the States Parties and register, when requested, bilateral agreements concluded between States Parties or between a State Party and the Organization for the purposes of Article X.

40. The Technical Secretariat shall inform the Executive Council of any problem that has arisen with regard to the discharge of its functions, including doubts, ambiguities or uncertainties about compliance with this Convention that have come to its notice in the performance of its verification activities and that it has been unable to resolve or clarify through its consultations with the State Party concerned.

41. The Technical Secretariat shall comprise a Director-General, who shall be its head and chief administrative officer, inspectors and such scientific, technical and other personnel as may be required.

42. The Inspectorate shall be a unit of the Technical Secretariat and shall act under the supervision of the Director-General.

43. The Director-General shall be appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter.

44. The Director-General shall be responsible to the Conference and the Executive Council for the appointment of the staff and the Organization and functioning of the Technical Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Only citizens of States Parties shall serve as the Director-General, as inspectors or as other members of the professional and clerical staff. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible. Recruitment shall be guided by the principle that the staff shall be kept to a minimum necessary for the proper discharge of the responsibilities of the Technical Secretariat.

45. The Director-General shall be responsible for the organization and functioning of the Scientific Advisory Board referred to in paragraph 21(h). The Director-General shall, in consultation with States Parties, appoint members of the Scientific Advisory Board, who shall serve in their individual capacity. The members of the Board shall be appointed on the basis of their expertise in the particular scientific fields relevant to the implementation of this Convention. The Director-General may also, as appropriate, in consultation with members of the Board, establish temporary working groups of scientific experts to provide recommendations on specific issues. In regard to the above, States Parties may submit lists of experts to the Director-General.

46. In the performance of their duties, the Director-General, the inspectors and the other members of the staff shall not seek or receive instructions from any Government or from any other source external to the Organization. They shall refrain from any action that might reflect on their positions as international officers responsible only to the Conference and the Executive Council.

47. Each State Party shall respect the exclusively international character of the responsibilities of the Director-General, the inspectors and the other members of the staff and not seek to influence them in the discharge of their responsibilities.

#### **E. PRIVILEGES AND IMMUNITIES**

48. The Organization shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

49. Delegates of States Parties, together with their alternates and advisers, representatives appointed to the Executive Council together with alternates and advisers, the Director-General and the staff of the Organization shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization.

50. The legal capacity, privileges and immunities referred to in this Article shall be defined in agreements between the Organization and the States Parties as well as in an agreement between the Organization and the State in which the headquarters of the Organization is seated. These agreements shall be considered and approved by the Conference pursuant to paragraph 21(i).

51. Notwithstanding paragraphs 48 and 49, the privileges and immunities enjoyed by the Director-General and the staff of the Technical Secretariat during the conduct of verification activities shall be those set forth in Part II, Section B, of the Verification Annex.

**ARTICLE IX****CONSULTATIONS, COOPERATION AND FACT-FINDING**

1. States Parties shall consult and cooperate, directly among themselves, or through the Organization or other appropriate international procedures, including procedures within the framework of the United Nations and in accordance with its Charter, on any matter which may be raised relating to the object and purpose, or the implementation of the provisions, of this Convention.

2. Without prejudice to the right of any State Party to request a challenge inspection, States Parties should, whenever possible, first make every effort to clarify and resolve, through exchange of information and consultations among themselves, any matter which may cause doubt about compliance with this Convention, or which gives rise to concerns about a related matter which may be considered ambiguous. A State Party which receives a request from another State Party for clarification of any matter which the requesting State Party believes causes such a doubt or concern shall provide the requesting State Party as soon as possible, but in any case not later than 10 days after the request, with information sufficient to answer the doubt or concern raised along with an explanation of how the information provided resolves the matter. Nothing in this Convention shall affect the right of any two or more States Parties to arrange by mutual consent for inspections or any other procedures among themselves to clarify and resolve any matter which may cause doubt about compliance or gives rise to a concern about a related matter which may be considered ambiguous. Such arrangements shall not affect the rights and obligations of any State Party under other provisions of this Convention.

*Procedure for requesting clarification*

3. A State Party shall have the right to request the Executive Council to assist in clarifying any situation which may be considered ambiguous or which gives rise to a concern about the possible non-compliance of another State Party with this Convention. The Executive Council shall provide appropriate information in its possession relevant to such a concern.

4. A State Party shall have the right to request the Executive Council to obtain clarification from another State Party on any situation which may be considered ambiguous or which gives rise to a concern about its possible non-compliance with this Convention. In such a case, the following shall apply:

(a) The Executive Council shall forward the request for clarification to the State Party concerned through the Director-General not later than 24 hours after its receipt;

(b) The requested State Party shall provide the clarification to the Executive Council as soon as possible, but in any case not later than 10 days after the receipt of the request;

(c) The Executive Council shall take note of the clarification and forward it to the requesting State Party not later than 24 hours after its receipt;

(d) If the requesting State Party deems the clarification to be inadequate, it shall have the right to request the Executive Council to obtain from the requested State Party further clarification;

(e) For the purpose of obtaining further clarification requested under subparagraph (d), the Executive Council may call on the Director-General to establish a group of experts from the Technical Secretariat, or if appropriate staff are not available in the Technical Secretariat, from elsewhere, to examine all available information and data relevant to the situation causing the concern. The group of experts shall submit a factual report to the Executive Council on its findings;

(f) If the requesting State Party considers the clarification obtained under subparagraphs (d) and (e) to be unsatisfactory, it shall have the right to request a special

session of the Executive Council in which States Parties involved that are not members of the Executive Council shall be entitled to take part. In such a special session, the Executive Council shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

5. A State Party shall also have the right to request the Executive Council to clarify any situation which has been considered ambiguous or has given rise to a concern about its possible non-compliance with this Convention. The Executive Council shall respond by providing such assistance as appropriate.

6. The Executive Council shall inform the States Parties about any request for clarification provided in this Article.

7. If the doubt or concern of a State Party about a possible non-compliance has not been resolved within 60 days after the submission of the request for clarification to the Executive Council, or it believes its doubts warrant urgent consideration, notwithstanding its right to request a challenge inspection, it may request a special session of the Conference in accordance with Article VIII, paragraph 12(c). At such a special session, the Conference shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.

*Procedures for challenge inspections*

8. Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex.

9. Each State Party is under the obligation to keep the inspection request within the scope of this Convention and to provide in the inspection request all appropriate information on the basis of which a concern has arisen regarding possible non-compliance with this Convention as specified in the Verification Annex. Each State Party shall refrain from unfounded inspection requests, care being taken to avoid abuse. The challenge inspection shall be carried out for the sole purpose of determining facts relating to the possible non-compliance.

10. For the purpose of verifying compliance with the provisions of this Convention, each State Party shall permit the Technical Secretariat to conduct the on-site challenge inspection pursuant to paragraph 8.

11. Pursuant to a request for a challenge inspection of a facility or location, and in accordance with the procedures provided for in the Verification Annex, the inspected State Party shall have:

(a) The right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention and, to this end, to enable the inspection team to fulfil its mandate;

(b) The obligation to provide access within the requested site for the sole purpose of establishing facts relevant to the concern regarding possible non-compliance; and

(c) The right to take measures to protect sensitive installations, and to prevent disclosure of confidential information and data, not related to this Convention.

12. With regard to an observer, the following shall apply:

(a) The requesting State Party may, subject to the agreement of the inspected State Party, send a representative who may be a national either of the requesting State Party or of a third State Party, to observe the conduct of the challenge inspection;

(b) The inspected State Party shall then grant access to the observer in accordance with the Verification Annex;

(c) The inspected State Party shall, as a rule, accept the proposed observer, but if the inspected State Party exercises a refusal, that fact shall be recorded in the final report.

13. The requesting State Party shall present an inspection request for an on-site challenge inspection to the Executive Council and at the same time to the Director-General for immediate processing.

14. The Director-General shall immediately ascertain that the inspection request meets the requirements specified in Part X, paragraph 4, of the Verification Annex, and, if necessary, assist the requesting State Party in filing the inspection request accordingly. When the inspection request fulfils the requirements, preparations for the challenge inspection shall begin.

15. The Director-General shall transmit the inspection request to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.

16. After having received the inspection request, the Executive Council shall take cognizance of the Director-General's actions on the request and shall keep the case under it consideration throughout the inspection procedure. However, its deliberations shall not delay the inspection process.

17. The Executive Council may, not later than 12 hours after having received the inspection request, decide by a three-quarter majority of all its members against carrying out the challenge inspection, if it considers the inspection request to be frivolous, abusive or clearly beyond the scope of this Convention as described in paragraph 8. Neither the requesting nor the inspected State Party shall participate in such a decision. If the Executive Council decides against the challenge inspection, preparations shall be stopped, no further action on the inspection request shall be taken, and the States Parties concerned shall be informed accordingly.

18. The Director-General shall issue an inspection mandate for the conduct of the challenge inspection. The inspection mandate shall be the inspection request referred to in paragraphs 8 and 9 put into operational terms, and shall conform with the inspection request.

19. The challenge inspection shall be conducted in accordance with Part X or, in the case of alleged use, in accordance with Part XI of the Verification Annex. The inspection team shall be guided by the principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission.

20. The inspected State Party shall assist the inspection team throughout the challenge inspection and facilitate its task. If the inspected State Party proposes, pursuant to Part X, Section C, of the Verification Annex, arrangements to demonstrate compliance with this Convention, alternative to full and comprehensive access, it shall make every reasonable effort, through consultations with the inspection team, to reach agreement on the modalities for establishing the facts with the aim of demonstrating its compliance.

21. The final report shall contain the factual findings as well as an assessment by the inspection team of the degree and nature of access and cooperation granted for the satisfactory implementation of the challenge inspection. The Director-General shall promptly transmit the final report of the inspection team to the requesting State Party, to the inspected State Party, to the Executive Council and to all other States Parties. The Director-General shall further transmit promptly to the Executive Council the assessments of the requesting and of the inspected States Parties, as well as the views of other States Parties which may be conveyed to the Director-General for that purpose, and then provide them to all States Parties.

22. The Executive Council shall, in accordance with its powers and functions, review the final report of the inspection team as soon as it is presented, and address any concerns as to:

- (a) Whether any non-compliance has occurred;
- (b) Whether the request had been within the scope of this Convention; and
- (c) Whether the right to request a challenge inspection had been abused.

23. If the Executive Council reaches the conclusion, in keeping with its powers and functions, that further action may be necessary with regard to paragraph 22, it shall take the appropriate measures to redress the situation and to ensure compliance with this Convention, including specific recommendations to the Conference. In the case of abuse, the Executive Council shall examine whether the requesting State Party should bear any of the financial implications of the challenge inspection.

24. The requesting State Party and the inspected State Party shall have the right to participate in the review process. The Executive Council shall inform the States Parties and the next session of the Conference of the outcome of the process.

25. If the Executive Council has made specific recommendations to the Conference, the Conference shall consider action in accordance with Article XII.

## ARTICLE X

### ASSISTANCE AND PROTECTION AGAINST CHEMICAL WEAPONS

1. For the purposes of this Article, "Assistance" means the coordination and delivery to States Parties of protection against chemical weapons, including, *inter alia*, the following: detection equipment and alarm systems; protective equipment; decontamination equipment and decontaminants; medical antidotes and treatments; and advice on any of these protective measures.

2. Nothing in this Convention shall be interpreted as impeding the right of any State Party to conduct research into, develop, produce, acquire, transfer or use means of protection against chemical weapons, for purposes not prohibited under this Convention.

3. Each State Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.

4. For the purposes of increasing the transparency of national programmes related to protective purposes, each State Party shall provide annually to the Technical Secretariat information on its programme, in accordance with procedures to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

5. The Technical Secretariat shall establish, not later than 180 days after entry into force of this Convention and maintain, for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties.

The Technical Secretariat shall also, within the resources available to it, and at the request of a State Party, provide expert advice and assist the State Party in identifying how its programmes for the development and improvement of a protective capacity against chemical weapons could be implemented.

6. Nothing in this Convention shall be interpreted as impeding the right of States Parties to request and provide assistance bilaterally and to conclude individual agreements with other States Parties concerning the emergency procurement of assistance.

7. Each State Party undertakes to provide assistance through the organization and to this end to elect to take one or more of the following measures:

(a) To contribute to the voluntary fund for assistance to be established by the Conference at its first session;

(b) To conclude, if possible not later than 180 days after this Convention enters into force for it, agreements with the organization concerning the procurement, upon demand, of assistance;

(c) To declare, not later than 180 days after this Convention enters into force for it, the kind of assistance it might provide in response to an appeal by the organization. If, however, a State Party subsequently is unable to provide the assistance envisaged in its declaration, it is still under the obligation to provide assistance in accordance with this paragraph.

8. Each State Party has the right to request and, subject to the procedures set forth in paragraphs 9, 10 and 11, to receive assistance and protection against the use or threat of use of chemical weapons if it considers that:

(a) Chemical weapons have been used against it;

(b) Riot control agents have been used against it as a method of warfare; or

(c) It is threatened by actions or activities of any State that are prohibited for States Parties by Article I.

9. The request, substantiated by relevant information, shall be submitted to the Director-General, who shall transmit it immediately to the Executive Council and to all States Parties. The Director-General shall immediately forward the request to States Parties which have volunteered, in accordance with paragraph 7(b) and (c), to dispatch emergency assistance in case of use of chemical weapons or use of riot control agents as a method of warfare, or humanitarian assistance in case of serious threat of use of chemical weapons or serious threat of use of riot control agents as a method of warfare to the State Party concerned not later than 12 hours after receipt of the request. The Director-General shall initiate, not later than 24 hours after receipt of the request, an investigation in order to provide foundation for further action. He shall complete the investigation within 72 hours and forward a report to the Executive Council. If additional time is required for completion of the investigation, an interim report shall be submitted within the same time-frame. The additional time required for investigation shall not exceed 72 hours. It may, however, be further extended by similar periods. Reports at the end of each additional period shall be submitted to the Executive Council. The investigation shall, as appropriate and in conformity with the request and the information accompanying the request, establish relevant facts related to the request as well as the type and scope of supplementary assistance and protection needed.

10. The Executive Council shall meet not later than 24 hours after receiving an investigation report to consider the situation and shall take a decision by simple majority within the following 24 hours on whether to instruct the Technical Secretariat to provide supplementary assistance. The Technical Secretariat shall immediately transmit to all States Parties and relevant international organizations the investigation report and the decision taken by the Executive Council. When so decided by the Executive Council, the Director-General shall provide assistance immediately. For this purpose, the Director-General may cooperate with the requesting State Party, other States Parties and relevant international organizations. The States Parties shall make the fullest possible efforts to provide assistance.

11. If the information available from the ongoing investigation or other reliable sources would give sufficient proof that there are victims of use of chemical weapons and immediate action is indispensable, the Director-General shall notify all States Parties and shall take emergency measures of assistance, using the resources the Conference has placed at his disposal for such contingencies. The Director-General shall keep the Executive Council informed of actions undertaken pursuant to this paragraph.

**ARTICLE XI****ECONOMIC AND TECHNOLOGY DEVELOPMENT**

1. The provisions of this Convention shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention.

2. Subject to the provisions of this Convention and without prejudice to the principles and applicable rules of international law, the States Parties shall:

- (a) Have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer, and use chemicals;
- (b) Undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under this Convention;
- (c) Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
- (d) Not use this Convention as grounds for applying any measures other than those provided for, or permitted, under this Convention nor use any other international agreement for pursuing an objective inconsistent with this Convention;
- (e) Undertake to review their existing national regulations in the field of trade in chemicals in order to render them consistent with the object and purpose of this Convention.

## ARTICLE XII

### MEASURES TO REDRESS A SITUATION AND TO ENSURE COMPLIANCE, INCLUDING SANCTIONS

1. The Conference shall take the necessary measures, as set forth in paragraphs 2, 3 and 4, to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention. In considering action pursuant to this paragraph, the Conference shall take into account all information and recommendations on the issues submitted by the Executive Council.
2. In cases where a State Party has been requested by the Executive Council to take measures to redress a situation raising problems with regard to its compliance, and where the State Party fails to fulfil the request within the specified time, the Conference may, *inter alia*, upon the recommendation of the Executive Council, restrict or suspend the State Party's rights and privileges under this Convention until it undertakes the necessary action to conform with its obligations under this Convention.
3. In cases where serious damage to the object and purpose of this Convention may result from activities prohibited under the Convention, in particular by Article I, the Conference may recommend collective measures to States Parties in conformity with international law.
4. The Conference shall, in cases of particular gravity, bring the issue, including relevant information and conclusions, to the attention of the United Nations General Assembly and the United Nations Security Council.

## ARTICLE XIII

### RELATION TO OTHER INTERNATIONAL AGREEMENTS

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, signed at London, Moscow and Washington on 10 April 1972.

**ARTICLE XIV****SETTLEMENT OF DISPUTES**

1. Disputes that may arise concerning the application or the interpretation of this Convention shall be settled in accordance with the relevant provisions of this Convention and in conformity with the provisions of the Charter of the United Nations.
2. When a dispute arises between two or more States Parties, or between one or more States Parties and the Organization, relating to the interpretation or application of this Convention, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the parties' choice, including recourse to appropriate organs of this Convention and, by mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court. The States Parties involved shall keep the Executive Council informed of actions being taken.
3. The Executive Council may contribute to the settlement of a dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement process of their choice and recommending a time-limit for any agreed procedure.
4. The Conference shall consider questions related to disputes raised by States Parties or brought to its attention by the Executive Council. The Conference shall, as it finds necessary, establish or entrust organs with tasks related to the settlement of these disputes in conformity with Article VIII, paragraph 21(f).
5. The Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the activities of the Organization. An agreement between the Organization and the United Nations shall be concluded for this purpose in accordance with Article VIII, paragraph 34(a).
6. This Article is without prejudice to Article IX or to the provisions on measures to redress a situation and to ensure compliance, including sanctions.

**ARTICLE XV****AMENDMENTS**

1. Any State Party may propose amendments to this Convention. Any State Party may also propose changes, as specified in paragraph 4, to the Annexes of this Convention. Proposals for amendments shall be subject to the procedures in paragraphs 2 and 3. Proposals for changes, as specified in paragraph 4, shall be subject to the procedures in paragraph 5.

2. The text of a proposed amendment shall be submitted to the Director-General for circulation to all States Parties and to the Depositary. The proposed amendment shall be considered only by an Amendment Conference. Such an Amendment Conference shall be convened if one third or more of the States Parties notify the Director-General not later than 30 days after its circulation that they support further consideration of the proposal. The Amendment Conference shall be held immediately following a regular session of the Conference unless the requesting States Parties ask for an earlier meeting. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.

3. Amendments shall enter into force for all States Parties 30 days after deposit of the instruments of ratification or acceptance by all the States Parties referred to under subparagraph (b) below:

(a) When adopted by the Amendment Conference by a positive vote of a majority of all States Parties with no State Party casting a negative vote; and

(b) Ratified or accepted by all those States Parties casting a positive vote at the Amendment Conference.

4. In order to ensure the viability and the effectiveness of this Convention, provisions in the Annexes shall be subject to changes in accordance with paragraph 5, if proposed changes are related only to matters of an administrative or technical nature. All changes to the Annex on Chemicals shall be made in accordance with paragraph 5. Sections A and C of the Confidentiality Annex, Part X of the Verification Annex, and those definitions in Part I of the Verification Annex which relate exclusively to challenge inspections, shall not be subject to changes in accordance with paragraph 5.

5. Proposed changes referred to in paragraph 4 shall be made in accordance with the following procedures:

(a) The text of the proposed changes shall be transmitted together with the necessary information to the Director-General. Additional information for the evaluation of the proposal may be provided by any State Party and the Director-General. The Director-General shall promptly communicate any such proposals and information to all States Parties, the Executive Council and the Depositary;

(b) Not later than 60 days after its receipt, the Director-General shall evaluate the proposal to determine all its possible consequences for the provisions of this Convention and its implementation and shall communicate any such information to all States Parties and the Executive Council;

(c) The Executive Council shall examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 4. Not later than 90 days after its receipt, the Executive Council shall notify its recommendation, with appropriate explanations, to all States Parties for consideration, States Parties shall acknowledge receipt within 10 days;

(d) If the Executive Council recommends to all States Parties that the proposal be adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. If the Executive Council recommends that

the proposal be rejected, it shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation;

(e) If a recommendation of the Executive Council does not meet with the acceptance required under sub-paragraph (d), a decision on the proposal, including whether it fulfils the requirements of paragraph 4, shall be taken as a matter of substance by the Conference at its next session;

(f) The Director-General shall notify all States Parties and the Depositary of any decision under this paragraph;

(g) Changes approved under this procedure shall enter into force for all States Parties 180 days after the date of notification by the Director-General of their approval unless another time period is recommended by the Executive Council or decided by the Conference.

**ARTICLE XVI****DURATION AND WITHDRAWAL**

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention if it decides that extraordinary events, related to the subject-matter of this Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal 90 days in advance to all other States Parties, the Executive Council, the Depositary and the United Nations Security Council. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.
3. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law, particularly the Geneva Protocol of 1925.

**ARTICLE XVII****STATUS OF THE ANNEXES**

The Annexes form an integral part of this Convention. Any reference to this Convention includes the Annexes.

**ARTICLE XVIII****SIGNATURE**

This Convention shall be open for signature for all States before its entry into force.

**ARTICLE XIX****RATIFICATION**

This Convention shall be subject to ratification by States Signatories according to their respective constitutional processes.

**ARTICLE XX****ACCESSION**

Any State which does not sign this Convention before its entry into force may accede to it at any time thereafter.

**ARTICLE XXI****ENTRY INTO FORCE**

1. This Convention shall enter into force 180 days after the date of the deposit of the 65th instrument of ratification, but in no case earlier than two years after its opening for signature.
2. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the 30th day following the date of deposit of their instrument of ratification or accession.

**ARTICLE XXII****RESERVATIONS**

The Articles of this Convention shall not be subject to reservations. The Annexes of this Convention shall not be subject to reservations incompatible with its object and purpose.

**ARTICLE XXIII****DEPOSITORY**

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention and shall, *inter alia*:

- (a) Promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention, and of the receipt of other notices;
- (b) Transmit duly certified copies of this Convention to the Governments of all signatory and acceding States; and
- (c) Register this Convention pursuant to Article 102 of the Charter of the United Nations.

**ARTICLE XXIV****AUTHENTIC TEXTS**

This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Paris on the thirteenth day of January, one thousand nine hundred and ninety-three.

## ANNEX ON CHEMICALS

### A. GUIDELINES FOR SCHEDULES OF CHEMICALS

#### *Guidelines for Schedule 1*

1. The following criteria shall be taken into account in considering whether a toxic chemical or precursor should be included in Schedule 1:

- (a) It has been developed, produced, stockpiled or used as a chemical weapon as defined in Article II;
- (b) It poses otherwise a high risk to the object and purpose of this Convention by virtue of its high potential for use in activities prohibited under this Convention because one or more of the following conditions are met:
  - (i) It possesses a chemical structure closely related to that of other toxic chemicals listed in Schedule 1, and has, or can be expected to have, comparable properties;
  - (ii) It possesses such lethal or incapacitating toxicity as well as other properties that would enable it to be used as a chemical weapon;
  - (iii) It may be used as a precursor in the final single technological stage of production of a toxic chemical listed in Schedule 1, regardless of whether this stage takes place in facilities, in munitions or elsewhere;
- (c) It has little or no use for purposes not prohibited under this Convention.

#### *Guidelines for Schedule 2*

2. The following criteria shall be taken into account in considering whether a toxic chemical not listed in Schedule 1 or a precursor to a Schedule 1 chemical or to a chemical listed in Schedule 2, part A, should be included in Schedule 2 :

- (a) It poses a significant risk to the object and purpose of this Convention because it possesses such lethal or incapacitating toxicity as well as other properties that could enable it to be used as a chemical weapon;
- (b) It may be used as a precursor in one of the chemical reactions at the final stage of formation of a chemical listed in Schedule 1 or Schedule 2, part A;
- (c) It poses a significant risk to the object and purpose of this Convention by virtue of its importance in the production of a chemical listed in Schedule 1 or Schedule 2, part A;
- (d) It is not produced in large commercial quantities for purposes not prohibited under this Convention.

#### *Guidelines for Schedule 3*

3. The following criteria shall be taken into account in considering whether a toxic chemical or precursor, not listed in other Schedules, should be included in Schedule 3:

- (a) It has been produced, stockpiled or used as a chemical weapon;
- (b) It poses otherwise a risk to the object and purpose of this Convention because it possesses such lethal or incapacitating toxicity as well as other properties that might enable it to be used as a chemical weapon;
- (c) It poses a risk to the object and purpose of this Convention by virtue of its importance in the production of one or more chemicals listed in Schedule 1 or Schedule 2, part B;
- (d) It may be produced in large commercial quantities for purposes not prohibited under this Convention.

### B. SCHEDULES OF CHEMICALS

The following Schedules list toxic chemicals and their precursors. For the purpose of implementing this Convention, these Schedules identify chemicals for the application of verification measures according to the provisions of the Verification Annex. Pursuant to Article II, sub-paragraph 1(a), these Schedules do not constitute a definition of chemical weapons.

(Whenever reference is made to groups of dialkylated chemicals, followed by a list of alkyl groups in parentheses, all chemicals possible by all possible combinations of alkyl groups listed in the parentheses are considered as listed in the respective Schedule as long as they are not explicitly exempted. A chemical market "\*" on Schedule 2, part A, is subject to special thresholds for declaration and verification, as specified in Part VII of the Verification Annex.)

*Schedule 1*

(CAS registry number)

**A. Toxic chemicals:**

(1) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates	
e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate	(107-44-8) (96-64-0)
(2) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanides	
e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanide	(77- 81-6)
(3) O-Alkyl (H or $\leq C_{10}$ , incl. cycloalkyl) S-2 dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts	
e.g. VX: O-Ethyl S-2 diisopropylaminoethyl methyl phosphonothiolate	(50782-69-9)
(4) Sulfur mustards:	
2-Chloroethylchloromethylsulfide	(2625-76-5)
Mustard gas: Bis(2-chloroethyl) sulfide	(505-60-2)
Bis(2-chloroethylthio) methane	(63869-13-6)
Sesquimustard: 1,2-Bis (2-chloroethylthio) ethane	(3563-36-8)
1,3-Bis(2-chloroethylthio)-n-propane	(63905-10-2)
1,4-Bis(2-chloroethylthio)-n-butane	(142868-93-7)
1,5-Bis(2-chloroethylthio)-n-pentane	(142868-94-8)
Bis(2-chloroethylthiomethyl)ether	(63918-90-1)
O-Mustard: Bis(2-chloroethylthioethyl)ether	(63918-89-8)
(5) Lewisites:	
Lewisite 1: 2-Chlorovinyldichloroarsine	(541-25-3)
Lewisite 2: Bis(2-chlorovinyl)chloroarsine	(40334-69-8)
Lewisite 3: Tris(2-chlorovinyl)arsine	(40334-70-1)
(6) Nitrogen mustards:	
HN1: Bis(2-chloroethyl)ethylamine	(538-07-8)
HN2: Bis(2-chloroethyl)methylamine	(51-75-2)
HN3: Tris(2-chloroethyl)amine	(555-77-1)
(7) Saxitoxin	(35523-89-8)
(8) Ricin	(9009-86-3)
<b>B. Precursors:</b>	
(9) Alkyl (Me, Et, n-Pr or i-Pr) phosphoryldifluorides e.g. DF: Methylphosphonyldifluoride	(676-99-3)

- (10) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) O-2-dialkyl  
 (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl  
 (Me, Et, n-Pr or i-Pr) phosphonites and  
 corresponding alkylated or protonated salts  
*e.g. QL: O-Ethyl O-2-diisopropylaminoethyl*  
*methylphosphonite* (57856-11-8)
- (11) Chlorosarin: O-Isopropyl methylphosphonochloridate (1445-76-7)
- (12) Chlorosoman: O-Pinacolyl methylphosphonochloridate (7040-57-5)

*Schedule 2*

## A. Toxic chemicals:

- (1) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts (78-53-5)
- (2) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (382-21-8)
- (3) BZ: 3-Quinuclidinyl benzilate (\*) (6581-06-2)

## B. Precursors:

- (4) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,  
*e.g. Methylphosphonyl dichloride* (676-97-1)  
*Dimethyl methylphosphonate* (756-79-6)
- Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate (944-22-9)
- (5) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides
- (6) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramides
- (7) Arsenic trichloride (7784-34-1)
- (8) 2,2-Diphenyl-2-hydroxyacetic acid (76-93-7)
- (9) Quinuclidin-3-ol (1619-34-7)
- (10) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyle-2-chlorides and corresponding protonated salts
- (11) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts  
 Exemptions: N,N-Dimethylaminoethanol (108-01-0)  
 and corresponding protonated salts  
 N,N-Diethylaminoethanol (100-37-8)  
 and corresponding protonated salts
- (12) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts
- (13) Thiodiglycol: Bis(2-hydroxyethyl)sulfide (111-48-8)
- (14) Pinacolyl alcohol: 3,3-Dimethylbutan-2-ol (464-07-3)

*Schedule 3***A. Toxic chemicals:**

- |   |            |
|---|------------|
| (1) Phosgene: Carbonyl dichloride       | (75-44-5)  |
| (2) Cyanogen chloride                   | (506-77-4) |
| (3) Hydrogen cyanide                    | (74-90-8)  |
| (4) Chloropicrin: Trichloronitromethane | (76-06-2)  |

**B. Precursors:**

- |                              |              |
|------------------------------|--------------|
| (5) Phosphorus oxychloride   | (10025-87-3) |
| (6) Phosphorus trichloride   | (7719-12-2)  |
| (7) Phosphorus pentachloride | (10026-13-8) |
| (8) Trimethyl phosphite      | (121-45-9)   |
| (9) Triethyl phosphite       | (122-52-1)   |
| (10) Dimethyl phosphite      | (868-85-9)   |
| (11) Diethyl phosphite       | (762-04-9)   |
| (12) Sulfur monochloride     | (10025-67-9) |
| (13) Sulfur dichloride       | (10545-99-0) |
| (14) Thionyl chloride        | (7719-09-7)  |
| (15) Ethyldiethanolamine     | (139-87-7)   |
| (16) Methyl diethanolamine   | (105-59-9)   |
| (17) Triethanolamine         | (102-71-6).  |

**ANNEX ON IMPLEMENTATION AND VERIFICATION  
("VERIFICATION ANNEX")****PART I****DEFINITIONS**

1. "Approved Equipment" means the devices and instruments necessary for the performance of the inspection team's duties that have been certified by the Technical Secretariat in accordance with regulations prepared by the Technical Secretariat pursuant to Part II, paragraph 27 of this Annex. Such equipment may also refer to the administrative supplies or recording materials that would be used by the inspection team.

2. "Building" as referred to in the definition of chemical weapons production facility in Article II comprises specialized buildings and standard buildings:

(a) "Specialized Building" means:

(i) Any building, including underground structures, containing specialized equipment in a production or filling configuration;

(ii) Any building, including underground structures, which has distinctive features which distinguish it from buildings normally used for chemical production or filling activities not prohibited under this Convention.

(b) "Standard Building" means any building, including underground structures, constructed to prevailing industry standards for facilities not producing any chemical specified in Article II, paragraph 8 (a) (i), or corrosive chemicals.

3. "Challenge Inspection" means the inspection of any facility or location in the territory or in any other place under the jurisdiction or control of a State Party requested by another State Party pursuant to Article IX, paragraphs 8 to 25.

4. "Discrete Organic Chemical" means any chemical belonging to the class of chemical compounds consisting of all compounds of carbon except for its oxides, sulfides and metal carbonates, identifiable by chemical name, by structural formula, if known, and by Chemical Abstracts Service registry number, if assigned.

5. "Equipment" as referred to in the definition of chemical weapons production facility in Article II comprises specialized equipment and standard equipment.

(a) "Specialized Equipment" means:

(i) The main production train, including any reactor or equipment for product synthesis, separation or purification, any equipment used directly for heat transfer in the final technological stage, such as in reactors or in product separation, as well as any other equipment which has been in contact with any chemical specified in Article II, paragraph 8 (a) (i), or would be in contact with such a chemical if the facility were operated;

(ii) Any chemical weapon filling machines;

(iii) Any other equipment specially designed, built or installed for the operation of the facility as a chemical weapons production facility, as distinct from a facility constructed according to prevailing commercial industry standards for facilities not producing any chemical specified in Article II, paragraph 8 (a) (i), or corrosive chemicals, such as: equipment made of high-nickel alloys or other special corrosion-resistant material; special equipment for waste control, waste treatment, air filtering, or solvent recovery; special containment enclosures and safety shields; non-standard laboratory equipment used to analyse toxic chemicals for chemical weapons purposes; custom-designed process control panels; or dedicated spares for specialized equipment.

(b) "Standard Equipment" means:

(i) Production equipment which is generally used in the chemical industry and is not included in the types of specialized equipment;

(ii) Other equipment commonly used in the chemical industry, such as: fire-fighting equipment; guard and security/safety surveillance equipment; medical facilities, laboratory facilities; or communications equipment.

6. "Facility" in the context of Article VI means any of the industrial sites as defined below ("plant site", "plant" and "unit"):

(a) "Plant Site" (Works, Factory) means the local integration of one or more plants, with any intermediate administrative levels, which are under one operational control, and includes common infrastructure, such as:

(i) Administration and other offices;

(ii) Repair and maintenance shops;

(iii) Medical centre;

(iv) Utilities;

(v) Central analytical laboratory;

(vi) Research and development laboratories;

(vii) Central effluent and waste treatment area; and

(viii) Warehouse storage.

(b) "Plant" (Production facility, Workshop) means a relatively self-contained area, structure or building containing one or more units with auxiliary and associated infrastructure, such as:

(i) Small administrative section;

(ii) Storage/handling areas for feedstock and products;

(iii) Effluent/waste handling/treatment area;

(iv) Control/analytical laboratory;

(v) First aid service/related medical section; and

(vi) Records associated with the movement into, around and from the site, of declared chemicals and their feedstock or product chemicals formed from them, as appropriate.

(c) "Unit" (Production unit, Process unit) means the combination of those items of equipment, including vessels and vessel set up, necessary for the production, processing or consumption of a chemical.

7. "Facility agreement" means an agreement or arrangement between a State Party and the Organization relating to a specific facility subject to on-site verification pursuant to Articles IV, V and VI.

8. "Host State" means the State on whose territory lie facilities or areas of another State, Party to this Convention, which are subject to inspection under this Convention.

9. "In-Country Escort" means individuals specified by the Inspected State Party and, if appropriate, by the Host State, if they so wish, to accompany and assist the inspection team during the in-country period.

10. "In-Country Period" means the period from the arrival of the inspection team at a point of entry until its departure from the State at a point of entry.

11. "Initial Inspection" means the first on-site inspection of facilities to verify declarations submitted pursuant to Articles III, IV, V and VI and this Annex.

12. "Inspected State Party" means the State Party on whose territory or in any other place under its jurisdiction or control an inspection pursuant to this Convention takes place,

or the State Party whose facility or area on the territory of a Host State is subject to such an inspection; it does not, however, include the State Party specified in Part II, paragraph 21 of this Annex.

13. "Inspection Assistant" means an individual designated by the Technical Secretariat as set forth in Part II, Section A, of this Annex to assist inspectors in an inspection or visit, such as medical, security and administrative personnel and interpreters.

14. "Inspection Mandate" means the instructions issued by the Director-General to the inspection team for the conduct of a particular inspection.

15. "Inspection Manual" means the compilation of additional procedures for the conduct of inspections developed by the Technical Secretariat.

16. "Inspection Site" means any facility or area at which an inspection is carried out and which is specifically defined in the respective facility agreement or inspection request or mandate or inspection request as expanded by the alternative or final perimeter.

17. "Inspection Team" means the group of inspectors and inspection assistants assigned by the Director-General to conduct a particular inspection.

18. "Inspector" means an individual designated by the Technical Secretariat according to the procedures as set forth in Part II, Section A, of this Annex, to carry out an inspection or visit in accordance with this Convention.

19. "Model Agreement" means a document specifying the general form and content for an agreement concluded between a State Party and the Organization for fulfilling the verification provisions specified in this Annex.

20. "Observer" means a representative of a requesting State Party or a third State Party to observe a challenge inspection.

21. "Perimeter" in case of challenge inspection means the external boundary of the inspection site, defined by either geographic coordinates or description on a map:

(a) "Requested Perimeter" means the inspection site perimeter as specified in conformity with Part X, paragraph 8, of this Annex;

(b) "Alternative Perimeter" means the inspection site perimeter as specified, alternatively to the requested perimeter, by the inspected State Party; it shall conform to the requirements specified in Part X, paragraph 17, of this Annex;

(c) "Final Perimeter" means the final inspection site perimeter as agreed in negotiations between the inspection team and the inspected State Party, in accordance with Part X, paragraphs 16 to 21, of this Annex;

(d) "Declared Perimeter" means the external boundary of the facility declared pursuant to Articles III, IV, V and VI.

22. "Period of Inspection", for the purposes of Article IX, means the period of time from provision of access to the inspection team to the inspection site until its departure from the inspection site, exclusive of time spent on briefings before and after the verification activities.

23. "Period of Inspection", for the purposes of Articles IV, V and VI, means the period of time from arrival of the inspection team at the inspection site until its departure from the inspection site, exclusive of time spent on briefings before and after the verification activities.

24. "Point of Entry"/"Point of Exit" mean a location designated for the in-country arrival of inspection teams for inspections pursuant to this Convention or for their departure after completion of their mission.

25. "Requesting State Party" means a State Party which has requested a challenge inspection pursuant to Article IX.

26. "Tonne" means metric ton, *i.e.*, 1,000 kg.

**PART II**  
**GENERAL RULES OF VERIFICATION**

**A. DESIGNATION OF INSPECTORS AND INSPECTION ASSISTANTS**

1. Not later than 30 days after entry into force of this Convention the Technical Secretariat shall communicate, in writing, to all States Parties the names, nationalities and ranks of the inspectors and inspection assistants proposed for designation, as well as a description of their qualifications and professional experiences.

2. Each State Party shall immediately acknowledge receipt of the list of inspectors and inspection assistants, proposed for designation communicated to it. The State Party shall inform the Technical Secretariat in writing of its acceptance of each inspector and inspection assistant, not later than 30 days after acknowledgment of receipt of the list. Any inspector and inspection assistant included in this list shall be regarded as designated unless a State Party, not later than 30 days after acknowledgment of receipt of the list, declares its non-acceptance in writing. The State Party may include the reason for the objection.

In the case of non-acceptance, the proposed inspector or inspection assistant shall not undertake or participate in verification activities on the territory or in any other place under the jurisdiction or control of the State Party which has declared its non-acceptance. The Technical Secretariat shall, as necessary, submit further proposals in addition to the original list.

3. Verification activities under this Convention shall only be performed by designated inspectors and inspection assistants.

4. Subject to the provisions of paragraph 5, a State Party has the right at any time to object to an inspector or inspection assistant who has already been designated. It shall notify the Technical Secretariat of its objection in writing and may include the reason for the objection. Such objection shall come into effect 30 days after receipt by the Technical Secretariat. The Technical Secretariat shall immediately inform the State Party concerned of the withdrawal of the designation of the inspector or inspection assistant.

5. A State Party that has been notified of an inspection shall not seek to have removed from the inspection team for that inspection any of the designated inspectors or inspection assistants named in the inspection team list.

6. The number of inspectors or inspection assistants accepted by and designated to a State Party must be sufficient to allow for availability and rotation of appropriate numbers of inspectors and inspection assistants.

7. If, in the opinion of the Director-General, the non-acceptance of proposed inspectors or inspection assistants impedes the designation of a sufficient number of inspectors or inspection assistants or otherwise hampers the effective fulfilment of the tasks of the Technical Secretariat, the Director-General shall refer the issue to the Executive Council.

8. Whenever amendments to the above-mentioned lists of inspectors and inspection assistants are necessary or requested, replacement inspectors and inspection assistants shall be designated in the same manner as set forth with respect to the initial list.

9. The members of the inspection team carrying out an inspection of a facility of a State Party located on the territory of another State Party shall be designated in accordance with the procedures set forth in this Annex as applied both to the inspected State Party and the Host State Party.

**B. PRIVILEGES AND IMMUNITIES**

10. Each State Party shall, not later than 30 days after acknowledgment of receipt of the list of inspectors and inspection assistants or of changes thereto, provide multiple entry/exit and/or transit visas and other such documents to enable each inspector or inspection assistant to enter and to remain on the territory of that State Party for the purpose of carrying out inspection activities. These documents shall be valid for at least two years after their provision to the Technical Secretariat.

11. To exercise their functions effectively, inspectors and inspection assistants shall be accorded privileges and immunities as set forth in sub-paragraphs (a) to (i). Privileges and immunities shall be granted to members of the inspection team for the sake of this Convention and not for the personal benefit of the individuals themselves. Such privileges and immunities shall be accorded to them for the entire period between arrival on and departure from the territory of the inspected State Party or Host State, and thereafter with respect to acts previously performed in the exercise of their official functions:

(a) The members of the inspection team shall be accorded the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations of 18 April, 1961;

(b) The living quarters and office premises occupied by the inspection team carrying out inspection activities pursuant to this Convention shall be accorded the inviolability and protection accorded to the premises of diplomatic agents pursuant to Article 30, paragraph 1, of the Vienna Convention on Diplomatic Relations.

(c) The papers and correspondence, including records, of the inspection team shall enjoy the inviolability accorded to all papers and correspondence of diplomatic agents pursuant to Article 30, paragraph 2, of the Vienna Convention on Diplomatic Relations. The inspection team shall have the right to use codes for their communications with the Technical Secretariat.

(d) Samples and approved equipment carried by members of the inspection team shall be inviolable subject to provisions contained in this Convention and exempt from all customs duties. Hazardous samples shall be transported in accordance with relevant regulations.

(e) The members of the inspection team shall be accorded the immunities accorded to diplomatic agents pursuant to Article 31, paragraphs 1, 2 and 3, of the Vienna Convention on Diplomatic Relations.

(f) The members of the inspection team carrying out prescribed activities pursuant to this Convention shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to Article 34 of the Vienna Convention on Diplomatic Relations.

(g) The members of the inspection team shall be permitted to bring into the territory of the inspected State Party or Host State Party, without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations.

(h) The members of the inspection team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions.

(i) The members of the inspection team shall not engage in any professional or commercial activity for personal profit on the territory of the inspected State Party or the Host State.

12. When transiting the territory of non-inspected States Parties, the members of the inspection team shall be accorded the privileges and immunities enjoyed by diplomatic agents

pursuant to Article 40, paragraph 1, of the Vienna Convention on Diplomatic Relations. Papers and correspondence, including records, and samples and approved equipment, carried by them, shall be accorded the privileges and immunities set forth in paragraph 11(c) and (d).

13. Without prejudice to their privileges and immunities the members of the inspection team shall be obliged to respect the laws and regulations of the inspected State Party or Host State and, to the extent that is consistent with the inspection mandate, shall be obliged not to interfere in the internal affairs of that State. If the inspected State Party or Host State Party considers that there has been an abuse of privileges and immunities specified in this Annex, consultations shall be held between the State Party and the Director-General to determine whether such an abuse has occurred and, if so determined, to prevent a repetition of such an abuse.

14. The immunity from jurisdiction of members of the inspection team may be waived by the Director-General in those cases when the Director-General is of the opinion that immunity would impede the course of justice and that it can be waived without prejudice to the implementation of the provisions of this Convention. Waiver must always be express.

15. Observers shall be accorded the same privileges and immunities accorded to inspectors pursuant to this section, except for those accorded pursuant to paragraph 11(d).

### C. STANDING ARRANGEMENTS

#### *Points of entry*

16. Each State Party shall designate the points of entry and shall supply the required information to the Technical Secretariat not later than 30 days after this Convention enters into force for it. These points of entry shall be such that the inspection team can reach any inspection site from at least one point of entry within 12 hours. Locations of points of entry shall be provided to all State Parties by the Technical Secretariat.

17. Each State Party may change the points of entry by giving notice of such change to the Technical Secretariat. Changes shall become effective 30 days after the Technical Secretariat receives such notification to allow appropriate notification to all States Parties.

18. If the Technical Secretariat considers that there are insufficient points of entry for the timely conduct of inspections or that changes to the points of entry proposed by a State Party would hamper such timely conduct of inspections, it shall enter into consultations with the State Party concerned to resolve the problem.

19. In cases where facilities or areas of an inspected State Party are located on the territory of a Host State Party or where the access from the point of entry to the facilities or areas subject to inspection requires transit through the territory of another State Party, the inspected State Party shall exercise the rights and fulfil the obligations concerning such inspections in accordance with this Annex. The Host State Party shall facilitate the inspection of those facilities or areas and shall provide for the necessary support to enable the inspection team to carry out its tasks in a timely and effective manner. State Parties through whose territory transit is required to inspect facilities or areas of an inspected State Party shall facilitate such transit.

20. In cases where facilities or areas of an inspected State Party are located on the territory of a State not Party to this Convention, the inspected State Party shall take all necessary measures to ensure that inspections of those facilities or areas can be carried out in accordance with the provisions of this Annex. A State Party that has one or more facilities or areas on the territory of a State not Party to this Convention shall take all necessary measures to ensure acceptance by the Host State of inspectors and inspection assistants designated to that State Party. If an inspected State Party is unable to ensure access, it shall demonstrate that it took all necessary measures to ensure access.

21. In cases where the facilities or areas sought to be inspected are located on the territory of a State Party, but in a place under the jurisdiction or control of a State not Party to this Convention, the State Party shall take all necessary measures as would be required of an inspected State Party and a Host State Party to ensure that inspections of such facilities or areas can be carried out in accordance with the provisions of this Annex. If the State Party is unable to ensure access to those facilities or areas, it shall demonstrate that it took all necessary measures to ensure access. This paragraph shall not apply where the facilities or areas sought to be inspected are those of the State Party.

*Arrangements for use of non-scheduled aircraft*

22. For inspections pursuant to Article IX and for other inspections where timely travel is not feasible using scheduled commercial transport, an inspection team may need to utilize aircraft owned or chartered by the Technical Secretariat. Not later than 30 days after this Convention enters into force for it, each State Party shall inform the Technical Secretariat of the standing diplomatic clearance number for non-scheduled aircraft transporting inspection teams and equipments necessary for inspection into and out of the territory in which an inspection site is located. Aircraft routings to and from the designated point of entry shall be along established international airways that are agreed upon between the States Parties and the Technical Secretariat as the basis for such diplomatic clearance.

23. When a non-scheduled aircraft is used, the Technical Secretariat shall provide the inspected State Party with a flight plan, through the National Authority, for the aircraft's flight from the last airfield prior to entering the airspace of the State in which the inspection site is located to the point of entry, not less than six hours before the scheduled departure time from that airfield. Such a plan shall be filed in accordance with the procedures of the International Civil Aviation Organization applicable to civil aircraft. For its owned or chartered flights, the Technical Secretariat shall include in the remarks section of each flight plan the standing diplomatic clearance number and the appropriate notation identifying the aircraft as an inspection aircraft.

24. Not less than three hours before the scheduled departure of the inspection team from the last airfield prior to entering the airspace of the State in which the inspection is to take place, the inspected State Party or Host State Party shall ensure that the flight plan filed in accordance with paragraph 23 is approved so that the inspection team may arrive at the point of entry by the estimated arrival time.

25. The inspected State Party shall provide parking, security protection, servicing and fuel as required by the Technical Secretariat for the aircraft of the inspection team at the point of entry when such aircraft is owned or chartered by the Technical Secretariat. Such aircraft shall not be liable for landing fees, departure tax, and similar charges. The Technical Secretariat shall bear the cost of such fuel, security protection and servicing.

*Administrative arrangements*

26. The inspected State Party shall provide or arrange for the amenities necessary for the inspection team such as communication means, interpretation services to the extent necessary for the performance of interviewing and other tasks, transportation, working space, lodging, meals and medical care. In this regard, the inspected State Party shall be reimbursed by the Organization for such costs incurred by the inspection team.

*Approved equipment*

27. Subject to paragraph 29, there shall be no restriction by the inspected State Party on the inspection team bringing on to the inspection site such equipment, approved in accordance with paragraph 28, which the Technical Secretariat has determined to be necessary to fulfil the inspection requirements. The Technical Secretariat shall prepare and, as appropriate, update a list of approved equipment, which may be needed for the purposes described above, and regulations governing such equipment which shall be in accordance with this Annex. In establishing the list of approved equipment and these

regulations, the Technical Secretariat shall ensure that safety considerations for all the types of facilities at which such equipment is likely to be used, are taken fully into account. A list of approved equipment shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

28. The equipment shall be in the custody of the Technical Secretariat and be designated, calibrated and approved by the Technical Secretariat. The Technical Secretariat shall, to the extent possible, select that equipment which is specifically designed for the specific kind of inspection required. Designated and approved equipment shall be specifically protected against unauthorized alteration.

29. The inspection State Party shall have the right, without prejudice to the prescribed time-frames, to inspect the equipment in the presence of inspection team members at the point of entry, *i.e.*, to check the identity of the equipment brought in or removed from the territory of the inspected State Party or the Host State. To facilitate such identification, the Technical Secretariat shall attach documents and devices to authenticate its designation and approval of the equipment. The inspection of the equipment shall also ascertain to the satisfaction of the inspected State Party that the equipment meets the description of the approved equipment for the particular type of inspection. The inspected State Party may exclude equipment not meeting that description or equipment without the above-mentioned authentication documents and devices. Procedures for the inspection of equipment shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

30. In cases where the inspection team finds it necessary to use equipment available on site not belonging to the Technical Secretariat and requests the inspected State Party to enable the team to use such equipment, the inspected State Party shall comply with the request to the extent it can.

#### D. PRE-INSPECTION ACTIVITIES

##### *Notification*

31. The Director-General shall notify the State Party before the planned arrival of the inspection team at the point of entry and within the prescribed time-frames, where specified, of its intention to carry out an inspection.

32. Notifications made by the Director-General shall include the following information:

- (a) The type of inspection;
- (b) The point of entry;
- (c) The date and estimated time of arrival at the point of entry;
- (d) The means of arrival at the point of entry;
- (e) The site to be inspected;
- (f) The names of inspectors and inspection assistants;
- (g) If appropriate, aircraft clearance for special flights.

33. The inspected State Party shall acknowledge the receipt of a notification by the Technical Secretariat of an intention to conduct an inspection, not later than one hour after receipt of such notification.

34. In the case of an inspection of a facility of a State Party located on the territory of another State Party, both States Parties shall be simultaneously notified in accordance with paragraphs 31 and 32.

##### *Entry into the territory of the inspected State Party or Host State and transfer to the inspection site*

35. The inspected State Party or Host State Party which has been notified of the arrival

of an inspection team, shall ensure its immediate entry into the territory and shall through an in-country escort or by other means do everything in its power to ensure the safe conduct of the inspection team and its equipment and supplies, from its point of entry to the inspection site(s) and to a point of exit.

36. The inspected State Party or Host State Party shall, as necessary, assist the inspection team in reaching the inspection site not later than 12 hours after the arrival at the point of entry.

*Pre-inspection briefing*

37. Upon arrival at the inspection site and before the commencement of the inspection, the inspection team shall be briefed by facility representatives, with the aid of maps and other documentation as appropriate, on the facility, the activities carried out there, safety measures and administrative and logistic arrangements necessary for the inspection. The time spent for the briefing shall be limited to the minimum necessary and in any event not exceed three hours.

**E. CONDUCT OF INSPECTIONS**

*General rules*

38. The members of the inspection team shall discharge their functions in accordance with the provisions of this Convention, as well as rules established by the Director-General and facility agreements concluded between States Parties and the Organisation.

39. The inspection team shall strictly observe the inspection mandate issued by the Director-General. It shall refrain from activities going beyond this mandate.

40. The activities of the inspection team shall be so arranged as to ensure the timely and effective discharge of its functions and the least possible inconvenience to the inspected State Party or Host State and disturbance to the facility or area inspected. The inspection team shall avoid unnecessary hampering or delaying the operation of a facility and avoid affecting its safety. In particular, the inspection team shall not operate any facility. If inspectors consider that, to fulfil their mandate, particular operations should be carried out in a facility, they shall request the designated representative of the inspected facility to have them performed. The representative shall carry out the request to the extent possible.

41. In the performance of their duties on the territory of an inspected State Party or Host State, the members of the inspection team shall, if the inspected State Party so requests, be accompanied by representatives of the inspected State Party, but the inspection team must not thereby be delayed or otherwise hindered in the exercise of its functions.

42. Detailed procedures for the conduct of inspections shall be developed for inclusion in the inspection manual by the Technical Secretariat, taking into account guidelines to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

*Safety*

43. In carrying out their activities, inspectors and inspection assistants shall observe safety regulations established at the inspection site, including those for the protection of controlled environments within a facility and for personal safety. In order to implement these requirements, appropriate detailed procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

*Communications*

44. Inspectors shall have the right throughout the in-country period to communicate with the Headquarters of the Technical Secretariat. For this purpose they may use their own, duly certified, approved equipment and may request that the inspected State Party or Host State Party provide them with access to other telecommunications. The inspection team shall have the right to use its own two-way system of radio communications between personnel patrolling the perimeter and other members of the inspection team.

*Inspection team and inspected State Party rights*

45. The inspection team shall, in accordance with the relevant Articles and Annexes of this Convention as well as with facility agreements and procedures set forth in the inspection manual, have the right to unimpeded access to the inspection site. The items to be inspected will be chosen by the inspectors.

46. Inspectors shall have the right to interview any facility personnel in the presence of representatives of the inspected State Party with the purpose of establishing relevant facts. Inspectors shall only request information and data which are necessary for the conduct of the inspection, and the inspected State Party shall furnish such information upon request. The inspected State Party shall have the right to object to questions posed to the facility personnel if those questions are deemed not relevant to the inspection. If the head of the inspection team objects and states their relevance, the questions shall be provided in writing to the inspected State Party for reply. The inspection team may note any refusal to permit interviews or to allow questions to be answered and any explanations given, in that part of the inspection report that deals with the cooperation of the inspected State Party.

47. Inspectors shall have the right to inspect documentation and records they deem relevant to the conduct of their mission.

48. Inspectors shall have the right to have photographs taken at their request by representatives of the inspected State Party or of the inspected facility. The capability to take instant development photographic prints shall be available. The inspection team shall determine whether photographs conform to those requested and, if not, repeat photographs shall be taken. The inspection team and the inspected State Party shall each retain one copy of every photograph.

49. The representatives of the inspected State Party shall have the right to observe all verification activities carried out by the inspection team.

50. The inspected State Party shall receive copies, at its request, of the information and data gathered about its facility(ies) by the Technical Secretariat.

51. Inspectors shall have the right to request clarifications in connection with ambiguities that arise during an inspection. Such requests shall be made promptly through the representative of the inspected State Party. The representative of the inspected State Party shall provide the inspection team, during the inspection, with such clarification as may be necessary to remove the ambiguity. If questions relating to an object or a building located within the inspection site are not resolved, the object or building shall, if requested, be photographed for the purpose of clarifying its nature and function. If the ambiguity cannot be removed during the inspection, the inspectors shall notify the Technical Secretariat immediately. The inspectors shall include in the inspection report any such unresolved question, relevant clarifications, and a copy of any photographs taken.

*Collection, handling and analysis of samples*

52. Representatives of the inspected State Party or of the inspected facility shall take samples at the request of the inspection team in the presence of inspectors. If so agreed in advance with the representatives of the inspected State Party or of the inspected facility, the inspection team may take samples itself.

53. Where possible, the analysis of samples shall be performed on-site. The inspection team shall have the right to perform on-site analysis of samples using approved equipment brought by it. At the request of the inspection team, the inspected State Party shall, in accordance with agreed procedures, provide assistance for the analysis of samples on-site. Alternatively, the inspection team may request that appropriate analysis on-site be performed in its presence.

54. The inspected State Party has the right to retain portions of all samples taken or take duplicate samples and be present when samples are analysed on-site.

55. The inspection team shall, if it deems it necessary, transfer samples for analysis off-site at laboratories designated by the Organization.

56. The Director-General shall have the primary responsibility for the security, integrity and preservation of samples and for ensuring that the confidentiality of samples transferred for analysis off-site is protected. The Director-General shall do so in accordance with procedures, to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i), for inclusion in the inspection manual. He shall:

- (a) Establish a stringent regime governing the collection, handling, transport and analysis of samples;
- (b) Certify the laboratories designated to perform different types of analysis;
- (c) Oversee the standardization of equipment and procedures at these designated laboratories, mobile analytical equipment and procedures, and monitor quality control and overall standards in relation to the certification of these laboratories, mobile equipment and procedures; and
- (d) Select from among the designated laboratories those which shall perform analytical or other functions in relation to specific investigations.

57. When off-site analysis is to be performed, samples shall be analysed in at least two designated laboratories. The Technical Secretariat shall ensure the expeditious processing of the analysis. The samples shall be accounted for by the Technical Secretariat and any unused samples or portions thereof shall be returned to the Technical Secretariat.

58. The Technical Secretariat shall compile the results of the laboratory analysis of samples relevant to compliance with this Convention and include them in the final inspection report. The Technical Secretariat shall include in the report detailed information concerning the equipment and methodology employed by the designated laboratories.

#### *Extension of inspection duration.*

59. Periods of inspection may be extended by agreement with the representative of the inspected State Party.

#### *Debriefing*

60. Upon completion of an inspection the inspection team shall meet with representatives of the inspected State Party and the personnel responsible for the inspection site to review the preliminary findings of the inspection team and to clarify any ambiguities. The inspection team shall provide to the representatives of the inspected State Party its preliminary findings in written form according to a standardized format, together with a list of any samples and copies of written information and data gathered and other material to be taken off-site. The document shall be signed by the head of the inspection team. In order to indicate that he has taken notice of the contents of the document, the representative of the inspected State Party shall countersign the document. This meeting shall be completed not later than 24 hours after the completion of the inspection.

#### F. DEPARTURE

61. Upon completion of the post-inspection procedures, the inspection team shall leave, as soon as possible, the territory of the inspected State Party or the Host State.

#### G. REPORTS

62. Not later than 10 days after the inspection, the inspectors shall prepare a factual, final report on the activities conducted by them and on their findings. It shall only contain facts relevant to compliance with this Convention, as provided for under the inspection mandate. The report shall also provide information as to the manner in which the State Party inspected cooperated with the inspection team. Differing observations made by inspectors may be attached to the report. The report shall be kept confidential.

63. The final report shall immediately be submitted to the inspected State Party. Any written comments, which the inspected State Party may immediately make on its findings shall be annexed to it. The final report together with annexed comments made by the inspected State Party shall be submitted to the Director-General not later than 30 days after the inspection.

64. Should the report contain uncertainties, or should cooperation between the National Authority and the inspectors not measure up to the standards required, the Director-General shall approach the State Party for clarification.

65. If the uncertainties cannot be removed or the facts established are of a nature to suggest that obligations undertaken under this Convention have not been met, the Director-General shall inform the Executive Council without delay.

#### H. APPLICATION OF GENERAL PROVISIONS

66. The provisions of this Part shall apply to all inspections conducted pursuant to this Convention, except where the provisions of this Part differ from the provisions set forth for specific types of inspections in Parts III to XI of this Annex, in which case the latter provisions shall take precedence.

**PART III****GENERAL PROVISIONS FOR VERIFICATION MEASURES PURSUANT TO ARTICLES IV, V AND VI,  
PARAGRAPH 3****A. INITIAL INSPECTIONS AND FACILITY AGREEMENTS**

1. Each declared facility subject to on-site inspection pursuant to Articles IV, V and VI, paragraph 3, shall receive an initial inspection promptly after the facility is declared. The purpose of this inspection of the facility shall be to verify information provided and to obtain any additional information needed for planning future verification activities at the facility, including on-site inspections and continuous monitoring with on-site instruments, and to work on the facility agreements.
2. States Parties shall ensure that the verification of declarations and the initiation of the systematic verification measures can be accomplished by the Technical Secretariat at all facilities within the established time-frames after this Convention enters into force for them.
3. Each State Party shall conclude a facility agreement with the Organization for each facility declared and subject to on-site inspection pursuant to Articles IV, V and VI, paragraph 3.
4. Facility agreements shall be completed not later than 180 days after this Convention enters into force for the State Party or after the facility has been declared for the first time, except for a chemical weapons destruction facility to which paragraphs 5 to 7 shall apply.
5. In the case of a chemical weapons destruction facility that begins operations more than one year after this Convention enters into force for the State Party, the facility agreement shall be completed not less than 180 days before the facility begins operation.
6. In the case of a chemical weapons destruction facility that is in operation when this Convention enters into force for the State Party, or begins operation not later than one year thereafter, the facility agreement shall be completed not later than 210 days after this Convention enters into force for the State Party, except that the Executive Council may decide that transitional verification arrangements, approved in accordance with Part IV(A), paragraph 51, of this Annex and including a transitional facility agreement, provisions for verification through on-site inspection and monitoring with on-site instruments, and the time-frame for application of the arrangements, are sufficient.
7. In the case of a facility, referred to in paragraph 6, that will cease operations not later than two years after this Convention enters into force for the State Party, the Executive Council may decide that transitional verification arrangements, approved in accordance with Part IV(A), paragraph 51, of this Annex and including a transitional facility agreement, provisions for verification through on-site inspection and monitoring with on-site instruments, and the time-frame for application of the arrangements, are sufficient.
8. Facility agreements shall be based on models for such agreements and provide for detailed arrangements which shall govern inspections at each facility. The model agreements shall include provisions to take into account future technological developments and shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).
9. The Technical Secretariat may retain at each site a sealed container for photographs, plans and other information that it may wish to refer to in the course of subsequent inspections.

**B. STANDING ARRANGEMENTS**

10. Where applicable, the Technical Secretariat shall have the right to have continuous monitoring instruments and systems and seals installed and to use them, in conformity with the relevant provisions in this Convention and the facility agreements between States Parties and the Organization.

11. The inspected State Party shall, in accordance with agreed procedures, have the right to inspect any instrument used or installed by the inspection team and to have it tested in the presence of representatives of the inspected State Party. The inspection team shall have the right to use the instruments that were installed by the inspected State Party for its own monitoring of the technological process of the destruction of chemical weapons. To this end, the inspection team shall have the right to inspect those instruments that it intends to use for purposes of verification of the destruction of chemical weapons and to have them tested in its presence.

12. The inspected State Party shall provide the necessary preparation and support for the establishment of continuous monitoring instruments and systems.

13. In order to implement paragraphs 11 and 12, appropriate detailed procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

14. The inspected State Party shall immediately notify the Technical Secretariat if an event occurs or may occur at a facility where monitoring instruments are installed, which may have an impact on the monitoring system. The inspected State Party shall coordinate subsequent actions with the Technical Secretariat with a view to restoring the operation of the monitoring system and establishing interim measures, if necessary, as soon as possible.

15. The inspection team shall verify during each inspection that the monitoring system functions correctly and that emplaced seals have not been tampered with. In addition, visits to service the monitoring system may be required to perform any necessary maintenance or replacement of equipment, or to adjust the coverage of the monitoring system as required.

16. If the monitoring system indicates any anomaly, the Technical Secretariat shall immediately take action to determine whether this resulted from equipment malfunction or activities at the facility. If, after this examination, the problem remains unresolved, the Technical Secretariat shall immediately ascertain the actual situation, including through immediate on-site inspection of, or visit to, the facility if necessary. The Technical Secretariat shall report any such problem immediately after its detection to the inspected State Party which shall assist in its resolution.

**C. PRE-INSPECTION ACTIVITIES**

17. The inspected State Party shall, except as specified in paragraph 18, be notified of inspections not less than 24 hours in advance of the planned arrival of the inspection team at the point of entry.

18. The inspected State Party shall be notified of initial inspections not less than 72 hours in advance of the estimated time of arrival of the inspection team at the point of entry.

**PART IV(A)****DESTRUCTION OF CHEMICAL WEAPONS AND ITS VERIFICATION  
PURSUANT TO ARTICLE IV****A. DECLARATIONS***Chemical weapons*

1. The declaration of chemical weapons by a State Party pursuant to Article III, paragraph 1(a) (ii), shall include the following:

(a) The aggregate quantity of each chemical declared;

(b) The precise location of each chemical weapons storage facility, expressed by:

(i) Name;

(ii) Geographical coordinates; and

(iii) A detailed site diagram, including a boundary map and the location of bunkers/storage areas within the facility;

(c) The detailed inventory for each chemical weapons storage facility including:

(i) Chemicals defined as chemical weapons in accordance with Article II;

(ii) Unfilled munitions, sub-munitions, devices and equipment defined as chemical weapons;

(iii) Equipment specially designed for use directly in connection with the employment of munitions, sub-munitions, devices or equipment specified in sub-paragraph (ii);

(iv) Chemicals specifically designed for use directly in connection with the employment of munitions, sub-munitions, devices or equipment specified in sub-paragraph (ii).

2. For the declaration of chemicals referred to in paragraph 1 (c) (i) the following shall apply:

(a) Chemicals shall be declared in accordance with the Schedules specified in the Annex on Chemicals;

(b) For a chemical not listed in the Schedules in the Annex on Chemicals the information required for possible assignment of the chemical to the appropriate Schedule shall be provided, including the toxicity of the pure compound. For a precursor, the toxicity and identity of the principal final reaction product(s) shall be provided;

(c) Chemicals, shall be identified by chemical name in accordance with current International Union of Pure and Applied Chemistry (IUPAC) nomenclature, structural formula and Chemical Abstracts Service registry number, if assigned. For a precursor, the toxicity and identity of the principal final reaction product(s) shall be provided;

(d) In cases involving mixtures of two or more chemicals, each chemical shall be identified and the percentage of each shall be provided, and the mixture shall be declared under the category of the most toxic chemical. If a component of a binary chemical weapon consists of a mixture of two or more chemicals, each chemical shall be identified and the percentage of each provided;

(e) Binary chemical weapons shall be declared under the relevant end product within the framework of the categories of chemical weapons referred to in

paragraph 16. The following supplementary information shall be provided for each type of binary chemical munition, device:

(i) The chemical name of the toxic end-product;

(ii) The chemical composition and quantity of each component;

(iii) The actual weight ratio between the components;

(iv) Which component is considered the key component;

(v) The projected quantity of the toxic end-product calculated on a stoichiometric basis from the key component, assuming 100 per cent. yield. A declared quantity (in tonnes) of the key component intended for a specific toxic end-product shall be considered equivalent to the quantity (in tonnes) of this toxic end-product calculated on a stoichiometric basis assuming 100 per cent. yield;

(f) For multicomponent chemical weapons, the declaration shall be analogous to that envisaged for binary chemical weapons;

(g) For each chemical the form of storage, *i.e.*, munitions, sub-munitions, devices, equipment or bulk containers and other containers shall be declared. For each form of storage the following shall be listed:

(i) Type;

(ii) Size or calibre;

(iii) Number of items; and

(iv) Nominal weight of chemical fill per item;

(h) For each chemical the total weight present at the storage facility shall be declared;

(i) In addition, for chemicals stored in bulk, the percentage purity shall be declared, if known.

3. For each type of unfilled munitions, sub-munitions, devices or equipment, referred to in paragraph 1(c)(ii), the information shall include:

(a) The number of items;

(b) The nominal fill volume per item;

(c) The intended chemical fill.

*Declarations of chemical weapons pursuant to Article III, paragraph 1(a)(iii)*

4. The declaration of chemical weapons pursuant to Article III, paragraph 1(a)(iii), shall contain all information specified in paragraphs 1 to 3 above. It is the responsibility of the State Party on whose territory the chemical weapons are located to make appropriate arrangements with the other State to ensure that the declarations are made. If the State Party on whose territory the chemical weapons are located is not able to fulfil its obligations under this paragraph, it shall state the reasons therefor.

*Declarations of past transfers and receipts*

5. A State Party that has transferred or received chemical weapons since 1 January 1946 shall declare these transfers or receipts pursuant to Article III, paragraph 1(a)(iv), provided the amount transferred or received exceeded 1 tonne per chemical per year in bulk and/or munition form. This declaration shall be made according to the inventory format specified in paragraphs 1 and 2. This declaration shall also indicate the supplier and recipient countries, the dates of the transfers or receipts and, as precisely as possible, the current location of the transferred items. When not all the specified information is available for transfers or receipts of chemical weapons for the period between 1 January 1946 and

1 January 1970, the State Party shall declare whatever information is still available to it and provide an explanation as to why it cannot submit a full declaration.

*Submission of the general plan for destruction of chemical weapons*

6. The general plan for destruction of chemical weapons submitted pursuant to Article III, paragraph 1 (a) (v), shall provide an overview of the entire national chemical weapons destruction programme of the State Party and information on the efforts of the State Party to fulfil the destruction requirements contained in this Convention. The plan shall specify:

- (a) A general schedule for destruction, giving types and approximate quantities of chemical weapons planned to be destroyed in each annual destruction period for each existing chemical weapons destruction facility and, if possible, for each planned chemical weapons destruction facility;
- (b) The number of chemical weapons destruction facilities existing or planned to be operated over the destruction period;
- (c) For each existing or planned chemical weapons destruction facility :
  - (i) Name and location; and
  - (ii) The types and approximate quantities of chemical weapons, and the type (for example, nerve agent or blister agent) and approximate quantity of chemical fill, to be destroyed;
- (d) The plans and programmes for training personnel for the operation of destruction facilities;
- (e) The national standards for safety and emissions that the destruction facilities must satisfy;
- (f) Information on the development of new methods for destruction of chemical weapons and on the improvement of existing methods;
- (g) The cost estimates for destroying the chemical weapons; and
- (h) Any issues which could adversely impact on the national destruction programme.

**B. MEASURES TO SECURE THE STORAGE FACILITY AND  
STORAGE FACILITY PREPARATION**

7. Not later than when submitting its declaration of chemical weapons, a State Party shall take such measures as it considers appropriate to secure its storage facilities and shall prevent any movement of its chemical weapons out of the facilities, except their removal for destruction.

8. A State Party shall ensure that chemical weapons at its storage facilities are configured to allow ready access for verification in accordance with paragraphs 37 to 49.

9. While a storage facility remains closed for any movement of chemical weapons out of the facility other than their removal for destruction, a State Party may continue at the facility standard maintenance activities, including standard maintenance of chemical weapons; safety monitoring and physical security activities; and preparation of chemical weapons for destruction.

10. Maintenance activities of chemical weapons shall not include:

- (a) Replacement of agent or of munition bodies;
- (b) Modification of the original characteristics of munitions; or parts or components thereof.

11. All maintenance activities shall be subject to monitoring by the Technical Secretariat.

### C. DESTRUCTION

#### *Principles and methods for destruction of chemical weapons*

12. "Destruction of chemical weapons" means a process by which chemicals are converted in an essentially irreversible way to a form unsuitable for production of chemical weapons, and which in an irreversible manner renders munitions and other devices unusable as such.

13. Each State Party shall determine how it shall destroy chemical weapons, except that the following processes may not be used: dumping in any body of water, land burial or open-pit burning. It shall destroy chemical weapons only at specifically designated and appropriately designed and equipped facilities.

14. Each State Party shall ensure that its chemical weapons destruction facilities are constructed and operated in a manner to ensure the destruction of the chemical weapons; and that the destruction process can be verified under the provisions of this Convention.

#### *Order of destruction*

15. The order of destruction of chemical weapons is based on the obligations specified in Article I and the other Articles, including obligations regarding systematic on-site verification. It takes into account interests of States Parties for undiminished security during the destruction period; confidence-building in the early part of the destruction stage; gradual acquisition of experience in the course of destroying chemical weapons; and applicability irrespective of the actual composition of the stockpiles and the methods chosen for the destruction of the chemical weapons. The order of destruction is based on the principle of levelling out.

16. For the purpose of destruction, chemical weapons declared by each State Party shall be divided into three categories:

Category 1: Chemical weapons on the basis of Schedule 1 chemicals and their parts and components;

Category 2: Chemical weapons on the basis of all other chemicals and their parts and components;

Category 3: Unfilled munitions and devices, and equipment specifically designed for use directly in connection with employment of chemical weapons.

17. A State Party shall start :

(a) The destruction of Category 1 chemical weapons not later than two years after this Convention enters into force for it, and shall complete the destruction not later than ten years after entry into force of this Convention. A State Party shall destroy chemical weapons in accordance with the following destruction deadlines:

(i) Phase 1—Not later than two years after entry into force of this Convention, testing of its first destruction facility shall be completed. Not less than 1 per cent. of the Category 1 chemical weapons shall be destroyed not later than three years after the entry into force of this Convention;

(ii) Phase 2—Not less than 20 per cent. of the Category 1 chemical weapons shall be destroyed not later than five years after the entry into force of this Convention;

(iii) Phase 3—Not less than 45 per cent. of the Category 1 chemical weapons shall be destroyed not later than seven years after the entry into force of this Convention;

(iv) Phase 4—All Category 1 chemical weapons shall be destroyed not later than 10 years after the entry into force of this Convention;

(b) The destruction of Category 2 chemical weapons not later than one year after this Convention enters into force for it and shall complete the destruction not later than five years after the entry into force of this Convention. Category 2 chemical weapons shall be destroyed in equal annual increments throughout the destruction period. The comparison factor for such weapons is the weight of the chemicals within Category 2; and

(c) The destruction of Category 3 chemical weapons not later than one year after this Convention enters into force for it, and shall complete the destruction not later than five years after the entry into force of this Convention. Category 3 chemical weapons shall be destroyed in equal annual increments throughout the destruction period. The comparison factor for unfilled munitions and devices is expressed in nominal fill volume (m<sup>3</sup>) and for equipment in number of items.

18. For the destruction of binary chemical weapons the following shall apply:

(a) For the purposes of the order of destruction, a declared quantity (in tonnes) of the key component intended for a specific toxic end-product shall be considered equivalent to the quantity (in tonnes) of this toxic end-product calculated on a stoichiometric basis assuming one hundred per cent yield;

(b) A requirement to destroy a given quantity of the key component shall entail a requirement to destroy a corresponding quantity of the other component, calculated from the actual weight ratio of the components in the relevant type of binary chemical munition device;

(c) If more of the other component is declared than is needed, based on the actual weight ratio between components, the excess shall be destroyed over the first two years after destruction operations begin;

(d) At the end of each subsequent operational year a State Party may retain an amount of the other declared component that is determined on the basis of the actual weight ratio of the components in the relevant type of binary chemical munition device.

19. For multicomponent chemical weapons the order of destruction shall be analogous to that envisaged for binary chemical weapons.

*Modification of intermediate destruction deadlines*

20. The Executive Council shall review the general plans for destruction of chemical weapons, submitted pursuant to Article III, paragraph 1(a)(v), and in accordance with paragraph 6, *inter alia*, to assess their conformity with the order of destruction set forth in paragraphs 15 to 19. The Executive Council shall consult with any State Party whose plan does not conform, with the objective of bringing the plan into conformity.

21. If a State Party, due to exceptional circumstances beyond its control, believes that it cannot achieve the level of destruction specified for Phase 1, Phase 2 or Phase 3 of the order of destruction of Category 1 chemical weapons, it may propose changes in those levels. Such a proposal must be made not later than 120 days after the entry into force of this Convention and shall contain a detailed explanation of the reasons for the proposal.

22. Each State Party shall take all necessary measures to ensure destruction of Category 1 chemical weapons in accordance with the destruction deadlines set forth in paragraph 17(a) as changed pursuant to paragraph 21. However, if a State Party believes that it will be unable to ensure the destruction of the percentage of Category 1 chemical weapons required by an intermediate destruction deadline, it may request the Executive Council to recommend to the Conference to grant an extension of its obligation to meet that deadline. Such a request must be made not less than 180 days before the intermediate destruction deadline and shall contain a detailed explanation of the reasons for the request and the plans of the State Party for ensuring that it will be able to fulfil its obligation to meet the next intermediate destruction deadline.

23. If an extension is granted, the State Party shall still be under the obligation to meet the cumulative destruction requirements set forth for the next destruction deadline. Extensions granted pursuant to this Section shall not, in any way, modify the obligation of the State Party to destroy all Category 1 chemical weapons not later than 10 years after the entry into force of this Convention.

*Extension of the deadline for completion of destruction*

24. If a State Party believes that it will be unable to ensure the destruction of all Category 1 chemical weapons not later than 10 years after the entry into force of this Convention, it may submit a request to the Executive Council for an extension of the deadline for completing the destruction of such chemical weapons. Such a request must be made not later than nine years after the entry into force of this Convention.

25. The request shall contain :

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension; and
- (c) A detailed plan for destruction during the proposed extension and the remaining portion of the original ten year period for destruction.

26. A decision on the request shall be taken by the Conference at its next session, on the recommendation of the Executive Council. Any extension shall be the minimum necessary, but in no case shall be deadline for a State Party to complete its destruction of all chemical weapons be extended beyond 15 years after the entry into force of this Convention. The Executive Council shall set conditions for the granting of the extension, including the specific verification measures deemed necessary as well as specific actions to be taken by the State Party to overcome problems in its destruction programme. Costs of verification during the extension period shall be allocated in accordance with Article IV, paragraph 16.

27. If an extension is granted, the State Party shall take appropriate measures to meet all subsequent deadlines.

28. The State Party shall continue to submit detailed annual plans for destruction in accordance with paragraph 29 and annual reports on the destruction of Category 1 chemical weapons in accordance with paragraph 36, until all Category 1 chemical weapons are destroyed. In addition, not later than at the end of each 90 days of the extension period, the State Party shall report to the Executive Council on its destruction activity. The Executive Council shall review progress towards completion of destruction and take the necessary measures to document this progress. All information concerning the destruction activities during the extension period shall be provided by the Executive Council to States Parties, upon request.

*Detailed annual plans for destruction*

29. The detailed annual plans for destruction shall be submitted to the Technical Secretariat not less than 60 days before each annual destruction period begins pursuant to Article IV, paragraph 7(a), and shall specify :

- (a) The quantity of each specific type of chemical weapon to be destroyed at each destruction facility and the inclusive dates when the destruction of each specific type of chemical weapon will be accomplished;
- (b) The detailed site diagram for each chemical weapons destruction facility and any changes to previously submitted diagrams; and
- (c) The detailed schedule of activities for each chemical weapons destruction facility for the upcoming year, identifying time required for design, construction or modification of the facility, installation of equipment, equipment check-out and operator training, destruction operations for each specific type of chemical weapon, and scheduled periods of inactivity.

30. A State Party shall provide, for each of its chemical weapons destruction facilities, detailed facility information to assist the Technical Secretariat in developing preliminary inspection procedures for use at the facility.

31. The detailed facility information for each destruction facility shall include the following information:

- (a) Name, address and location;
- (b) Detailed, annotated facility drawings;
- (c) Facility design drawings, process drawings, and piping and instrumentation design drawings;
- (d) Detailed technical descriptions, including design drawings and instrument specifications, for the equipment required for: removing the chemical fill from the munitions, devices, and containers; temporarily storing the drained chemical fill; destroying the chemical agent; and destroying the munitions, devices, and containers;
- (e) Detailed technical descriptions of the destruction process, including material flow rates, temperatures and pressures, and designed destruction efficiency;
- (f) Design capacity for each specific type of chemical weapon;
- (g) A detailed description of the products of destruction and the method of their ultimate disposal;
- (h) A detailed technical description of measures to facilitate inspections in accordance with this Convention;
- (i) A detailed description of any temporary holding area at the destruction facility that will be used to provide chemical weapons directly to the destruction facility, including site and facility drawings and information on the storage capacity for each specific type of chemical weapon to be destroyed at the facility;
- (j) A detailed description of the safety and medical measures in force at the facility;
- (k) A detailed description of the living quarters and working premises for the inspectors; and
- (l) Suggested measures for international verification.

32. A State Party shall provide, for each of its chemical weapons destruction facilities, the plant operations manuals, the safety and medical plans, the laboratory operations and quality assurance and control manuals, and the environmental permits that have been obtained, except that this shall not include material previously provided.

33. A State Party shall promptly notify the Technical Secretariat of any developments that could affect inspection activities at its destruction facilities.

34. Deadlines for submission of the information specified in paragraphs 30 to 32 shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

35. After a review of the detailed facility information for each destruction facility, the Technical Secretariat, if the need arises, shall enter into consultation with the State Party concerned in order to ensure that its chemical weapons destruction facilities are designed to assure the destruction of chemical weapons, to allow advanced planning on how verification measures may be applied and to ensure that the application of verification measures is consistent with proper facility operation, and that the facility operation allows appropriate verification.

*Annual reports on destruction*

36. Information regarding the implementation of plans for destruction of chemical weapons shall be submitted to the Technical Secretariat pursuant to Article IV, paragraph

7(b), not later than 60 days after the end of each annual destruction period and shall specify the actual amounts of chemical weapons which were destroyed during the previous year at each destruction facility. If appropriate, reasons for not meeting destruction goals should be stated.

#### D. VERIFICATION

##### *Verification of declarations of chemical weapons through on-site inspection*

37. The purpose of the verification of declarations of chemical weapons shall be to confirm through on-site inspection the accuracy of the relevant declarations made pursuant to Article III.

38. The inspectors shall conduct this verification promptly after a declaration is submitted. They shall, *inter alia*, verify the quantity and identity of chemicals, types and number of munitions, devices and other equipment.

39. The inspectors shall employ, as appropriate, agreed seals, markers or other inventory control procedures to facilitate an accurate inventory of the chemical weapons at each storage facility.

40. As the inventory progresses, inspectors shall install such agreed seals as may be necessary to clearly indicate if any stocks are removed, and to ensure the securing of the storage facility during the inventory. After completion of the inventory, such seals will be removed unless otherwise agreed.

##### *Systematic verification of storage facilities*

41. The purpose of the systematic verification of storage facilities shall be to ensure that no undetected removal of chemical weapons from such facilities takes place.

42. The systematic verification shall be initiated as soon as possible after the declaration of chemical weapons is submitted and shall continue until all chemical weapons have been removed from the storage facility. It shall in accordance with the facility agreement, combine on-site inspection and monitoring with on-site instruments.

43. When all chemical weapons have been removed from the storage facility, the Technical Secretariat shall confirm the declaration of the State Party to that effect. After this confirmation, the Technical Secretariat shall terminate the systematic verification of the storage facility and shall promptly remove any monitoring instruments installed by the inspectors.

##### *Inspections and visits*

44. The particular storage facility to be inspected shall be chosen by the Technical Secretariat in such a way as to preclude the prediction of precisely when the facility is to be inspected. The guidelines for determining the frequency of systematic on-site inspections shall be elaborated by the Technical Secretariat, taking into account the recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

45. The Technical Secretariat shall notify the inspected State Party of its decision to inspect or visit the storage facility 48 hours before the planned arrival of the inspections team at the facility for systematic inspections or visits. In cases of inspections or visits to resolve urgent problems, this period may be shortened. The Technical Secretariat shall specify the purpose of the inspection or visit.

46. The inspected State Party shall make any necessary preparations for the arrival of the inspectors and shall ensure their expeditious transportation from their point of entry to the storage facility. The facility agreement will specify administrative arrangements for inspectors.

47. The inspected State Party shall provide the inspection team upon its arrival at the chemical weapons storage facility to carry out an inspection, with the following data on the facility:

(a) The number of storage buildings and storage locations;

(b) For each storage building and storage location, the type and the identification number or designation, shown on the site diagram; and

(c) For each storage building and storage location at the facility, the number of items of each specific type of chemical weapon, and, for containers that are not part of binary munitions, the actual quantity of chemical fill in each container.

48. In carrying out an inventory, within the time available, inspectors shall have the right:

(a) To use any of the following inspection techniques:

(i) Inventory all the chemical weapons stored at the facility;

(ii) Inventory all the chemical weapons stored in specific buildings or locations at the facility, as chosen by the inspectors; or

(iii) Inventory all the chemical weapons of one or more specific types stored at the facility, as chosen by the inspectors; and

(b) To check all items inventoried against agreed records.

49. Inspectors shall, in accordance with facility agreements:

(a) Have unimpeded access to all parts of the storage facilities including any munitions, devices, bulk containers, or other containers therein. While conducting their activity, inspectors shall comply with the safety regulations at the facility. The items to be inspected will be chosen by the inspectors; and

(b) Have the right, during the first and any subsequent inspection of each chemical weapons storage facility, to designate munitions, devices, and containers from which samples are to be taken, and to affix to such munitions, devices, and containers a unique tag that will indicate an attempt to remove or alter the tag. A sample shall be taken from a tagged item at a chemical weapons storage facility or a chemical weapons destruction facility as soon as it is practically possible in accordance with the corresponding destruction programmes, and, in any case, not later than by the end of the destruction operations.

*Systematic verification of the destruction of chemical weapons*

50. The purpose of verification of destruction of chemical weapons shall be:

(a) To confirm the identity and quantity of the chemical weapons stocks to be destroyed; and

(b) To confirm that these stocks have been destroyed.

51. Chemical weapons destruction operations during the first 390 days after the entry into force of this Convention shall be governed by transitional verification arrangements. Such arrangements, including a transitional facility agreement, provisions for verification through on-site inspection and monitoring with on-site instruments, and the time-frame for application of the arrangements, shall be agreed between the Organization and the inspected State Party. These arrangements shall be approved by the Executive Council not later than 60 days after this Convention enters into force for the State Party, taking into account the recommendations of the Technical Secretariat, which shall be based on an evaluation of the detailed facility information provided in accordance with paragraph 31 and a visit to the facility. The Executive Council shall, at its first session, establish the guidelines for such transitional verification arrangements, based on recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i). The transitional verification arrangements shall be designed to verify, throughout the entire transitional period, the destruction of chemical weapons in accordance with the purposes set forth in paragraph 50, and to avoid hampering ongoing destruction operations.

52. The provisions of paragraphs 53 to 61 shall apply to chemical weapons destruction operations that are to begin not earlier than 390 days after the entry into force of this Convention.

53. On the basis of this Convention and the detailed destruction facility information, and as the case may be, on experience from previous inspections, the Technical Secretariat shall prepare a draft plan for inspecting the destruction of chemical weapons at each destruction facility. The plan shall be completed and provided to the inspected State Party for comment not less than 270 days before the facility begins destruction operations pursuant to this Convention. Any differences between the Technical Secretariat and the inspected State Party should be resolved through consultations. Any unresolved matter shall be forwarded to the Executive Council for appropriate action with a view to facilitating the full implementation of this Convention.

54. The Technical Secretariat shall conduct an initial visit to each chemical weapons destruction facility of the inspected State Party not less than 240 days before each facility begins destruction operations pursuant to this Convention, to allow it to familiarize itself with the facility and assess the adequacy of the inspection plan.

55. In the case of an existing facility where chemical weapons destruction operations have already been initiated, the inspected State Party shall not be required to decontaminate the facility before the Technical Secretariat conducts an initial visit. The duration of the visit shall not exceed five days and the number of visiting personnel shall not exceed 15.

56. The agreed detailed plans for verification, with an appropriate recommendation by the Technical Secretariat, shall be forwarded to the Executive Council for review. The Executive Council shall review the plans with a view to approving them, consistent with verification objectives and obligations under this Convention. It should also confirm that verification schemes for destruction are consistent with verification aims and are efficient and practical. This review should be completed not less than 180 days before the destruction period begins.

57. Each member of the Executive Council may consult with the Technical Secretariat on any issues regarding the adequacy of the plan for verification. If there are no objections by any member of the Executive Council, the plan shall be put into action.

58. If there are any difficulties, the Executive Council shall enter into consultations with the State Party to reconcile them. If any difficulties remain unresolved they shall be referred to the Conference.

59. The detailed facility agreements for chemical weapons destruction facilities shall specify, taking into account the specific characteristics of the destruction facility and its mode of operation:

(a) Detailed on-site inspection procedures; and

(b) Provisions for verification through continuous monitoring with on-site instruments and physical presence of inspectors.

60. Inspectors shall be granted access to each chemical weapons destruction facility not less than 60 days before the commencement of the destruction, pursuant to this Convention, at the facility. Such access shall be for the purpose of supervising the installation of the inspection equipment, inspecting this equipment and testing its operation, as well as for the purpose of carrying out a final engineering review of the facility. In the case of an existing facility where chemical weapons destruction operations have already been initiated, destruction operations shall be stopped for the minimum amount of time required, not to exceed 60 days, for installation and testing of the inspection equipment. Depending on the results of the testing and review, the State Party and the Technical Secretariat may agree on additions or changes to the detailed facility agreement for the facility.

61. The inspected State Party shall notify, in writing, the inspection team leader at a chemical weapons destruction facility not less than four hours before the departure of each

shipment of chemical weapons from a chemical weapons storage facility to that destruction facility. This notification shall specify the name of the storage facility, the estimated times of departure and arrival, the specific types and quantities of chemical weapons being transported, whether any tagged items are being moved, and the method of transportation. This notification may include notification of more than one shipment. The inspection team leader shall be promptly notified, in writing, of any changes in this information.

*Chemical weapons storage facilities at chemical weapons destruction facilities*

62. The inspectors shall verify the arrival of the chemical weapons at the destruction facility and the storing of these chemical weapons. The inspectors shall verify the inventory of each shipment, using agreed procedures consistent with facility safety regulations, prior to the destruction of the chemical weapons. They shall employ, as appropriate, agreed seals, markers or other inventory control procedures to facilitate an accurate inventory of the chemical weapons prior to destruction.

63. As soon and as long as chemical weapons are stored at chemical weapons storage facilities located at chemical weapons destruction facilities, these storage facilities shall be subject to systematic verification in conformity with the relevant facility agreements.

64. At the end of an active destruction phase, inspectors shall make an inventory of the chemical weapons, that have been removed from the storage facility, to be destroyed. They shall verify the accuracy of the inventory of the chemical weapons remaining, employing inventory control procedures as referred to in paragraph 62.

*Systematic on-site verification measures at chemical weapons destruction facilities*

65. The inspectors shall be granted access to conduct their activities at the chemical weapons destruction facilities and the chemical weapons storage facilities located at such facilities during the entire active phase of destruction.

66. At each chemical weapons destruction facility, to provide assurance that no chemical weapons are diverted and that the destruction process has been completed, inspectors shall have the right to verify through their physical presence and monitoring with on-site instruments:

- (a) The receipt of chemical weapons at the facility;
- (b) The temporary holding area for chemical weapons and the specific type and quantity of chemical weapons stored in that area;
- (c) The specific type and quantity of chemical weapons being destroyed;
- (d) The process of destruction;
- (e) The end-product of destruction;
- (f) The mutilation of metal parts; and
- (g) The integrity of the destruction process and of the facility as a whole.

67. Inspectors shall have the right to tag, for sampling, munitions, devices, or containers located in the temporary holding areas at the chemical weapons destruction facilities.

68. To the extent that it meets inspection requirements, information from routine facility operations, with appropriate data authentication, shall be used for inspection purposes.

69. After the completion of each period of destruction, the Technical Secretariat shall confirm the declaration of the State Party, reporting the completion of destruction of the designated quantity of chemical weapons.

70. Inspectors shall, in accordance with facility agreements:

- (a) Have unimpeded access to all parts of the chemical weapons destruction facilities and the chemical weapons storage facilities located at such facilities, including any munitions, devices, bulk containers, or other containers, therein. The items to be inspected shall be chosen by the inspectors in accordance with the verification plan that has been agreed to by the inspected State Party and approved by the Executive Council;
- (b) Monitor the systematic on-site analysis of samples during the destruction process; and
- (c) Receive, if necessary, samples taken at their request from any devices, bulk containers and other containers at the destruction facility or the storage facility thereat.

**PART IV (B)****OLD CHEMICAL WEAPONS AND ABANDONED CHEMICAL WEAPONS****A. GENERAL**

1. Old chemical weapons shall be destroyed as provided for in Section B.
2. Abandoned chemical weapons, including those which also meet the definition of Article II, paragraph 5 (b), shall be destroyed as provided for in Section C.

**B. REGIME FOR OLD CHEMICAL WEAPONS**

3. A State Party which has on its territory old chemical weapons as defined in Article II, paragraph 5 (a), shall, not later than 30 days after this Convention enters into force for it, submit to the Technical Secretariat all available relevant information, including, to the extent possible, the location, type, quantity and the present condition of these old chemical weapons.

In the case of old chemical weapons as defined in Article II, paragraph 5 (b), the State Party shall submit to the Technical Secretariat a declaration pursuant to Article III, paragraph 1 (b) (i), including, to the extent possible, the information specified in Part IV (A), paragraphs 1 to 3, of this Annex.

4. A State Party which discovers old chemical weapons after this Convention enters into force for it shall submit to the Technical Secretariat the information specified in paragraph 3 not later than 180 days after this discovery of the old chemical weapons.

5. The Technical Secretariat shall conduct an initial inspection, and any further inspections as may be necessary, in order to verify the information submitted pursuant to paragraphs 3 and 4 and in particular to determine whether the chemical weapons meet the definition of old chemical weapons as specified in Article II, paragraph 5. Guidelines to determine the usability of chemical weapons produced between 1925 and 1946 shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

6. A State Party shall treat old chemical weapons that have been confirmed by the Technical Secretariat as meeting the definition in Article II, paragraph 5(a), as toxic waste. It shall inform the Technical Secretariat of the steps being taken to destroy or otherwise dispose of such old chemical weapons as toxic waste in accordance with its national legislation.

7. Subject to paragraphs 3 to 5, a State Party shall destroy old chemical weapons that have been confirmed by the Technical Secretariat as meeting the definition in Article II, paragraph 5 (b), in accordance with Article IV and Part IV (A) of this Annex. Upon request of a State Party, the Executive Council may, however, modify the provisions on time-limit and order of destruction of these old chemical weapons, if it determines that doing so would not pose a risk to the object and purpose of this Convention. The request shall contain specific proposals for modification of the provisions and a detailed explanation of the reasons for the proposed modification.

**C. REGIME FOR ABANDONED CHEMICAL WEAPONS**

8. A State Party on whose territory there are abandoned chemical weapons (hereinafter referred to as the "Territorial State Party") shall, not later than 30 days after this Convention enters into force for it, submit to the Technical Secretariat all available relevant information concerning the abandoned chemical weapons. This information shall include, to the extent possible, the location, type, quantity and the present condition of the abandoned chemical weapons as well as information on the abandonment.

9. A State Party which discovers abandoned chemical weapons after this Convention enters into force for it shall, not later than 180 days after the discovery, submit to the Technical Secretariat all available relevant information concerning the discovered abandoned chemical

weapons. This information shall include, to the extent possible, the location, type, quantity and the present condition of the abandoned chemical weapons as well as information on the abandonment.

10. A State Party which has abandoned chemical weapons on the territory of another State Party (hereinafter referred to as the "Abandoning State Party") shall, not later than 30 days after this Convention enters into force for it, submit to the Technical Secretariat all available relevant information concerning the abandoned chemical weapons. This information shall include, to the extent possible, the location, type, quantity as well as information on the abandonment, and the condition of the abandoned chemical weapons.

11. The Technical Secretariat shall conduct an initial inspection, and any further inspections as may be necessary, in order to verify all available relevant information submitted pursuant to paragraphs 8 to 10 and determine whether systematic verification in accordance with Part IV (A), paragraphs 41 to 43, of this Annex is required. It shall, if necessary, verify the origin of the abandoned chemical weapons and establish evidence concerning the abandonment and the identity of the Abandoning State.

12. The report of the Technical Secretariat shall be submitted to the Executive Council, the Territorial State Party, and to the Abandoning State Party or the State Party declared by the Territorial State Party or identified by the Technical Secretariat as having abandoned the chemical weapons. If one of the States Parties directly concerned is not satisfied with the report it shall have the right to settle the matter in accordance with provisions of this Convention or bring the issue to the Executive Council with a view to settling the matter expeditiously.

13. Pursuant to Article I, paragraph 3, the Territorial State Party shall have the right to request the State Party which has been established as the Abandoning State Party pursuant to paragraphs 8 to 12 to enter into consultations for the purpose of destroying the abandoned chemical weapons in cooperation with the Territorial State Party. It shall immediately inform the Technical Secretariat of this request.

14. Consultations between the Territorial State Party and the Abandoning State Party with a view to establishing a mutually agreed plan for destruction shall begin not later than 30 days after the Technical Secretariat has been informed of the request referred to in paragraph 13. The mutually agreed plan for destruction shall be transmitted to the Technical Secretariat not later than 180 days after the Technical Secretariat has been informed of the request referred to in paragraph 13. Upon the request of the Abandoning State Party and the Territorial State Party, the Executive Council may extend the time-limit for transmission of the mutually agreed plan for destruction.

15. For the purpose of destroying abandoned chemical weapons, the Abandoning State Party shall provide all necessary financial, technical, expert, facility as well as other resources. The Territorial State Party shall provide appropriate cooperation.

16. If the Abandoning State cannot be identified or is not a State Party, the Territorial State Party, in order to ensure the destruction of these abandoned chemical weapons, may request the Organization and other States Parties to provide assistance in the destruction of these abandoned chemical weapons.

17. Subject to paragraphs 8 to 16, Article IV and Part IV (A) of this Annex shall also apply to the destruction of abandoned chemical weapons. In the case of abandoned chemical weapons which also meet the definition of old chemical weapons in Article II, paragraph 5 (b), the Executive Council, upon the request of the Territorial State Party, individually or together with the Abandoning State Party, may modify or in exceptional cases suspend the application of provisions on destruction, if it determines that doing so would not pose a risk to the object and purpose of this Convention. In the case of abandoned chemical weapons which do not meet the definition of old chemical weapons in Article II, paragraph 5 (b), the Executive Council, upon the request of the Territorial State Party, individually or together with the Abandoning State Party, may in exceptional circumstances modify the provisions

on the time-limit and the order of destruction, if it determines that doing so would not pose a risk to the object and purpose of this Convention. Any request as referred to in this paragraph shall contain specific proposals for modification of the provisions and a detailed explanation of the reasons for the proposal modification.

18. States Parties may conclude between themselves agreements or arrangements concerning the destruction of abandoned chemical weapons. The Executive Council may, upon request of the Territorial State Party, individually or together with the Abandoning State Party, decide that selected provisions of such agreements or arrangements take precedence over provisions of this section, if it determines that the agreement or arrangement ensures the destruction of the abandoned chemical weapons in accordance with paragraph 17:

## PART V

DESTRUCTION OF CHEMICAL WEAPONS PRODUCTION FACILITIES AND ITS  
VERIFICATION PURSUANT TO ARTICLE V

## A. DECLARATIONS

*Declarations of chemical weapons production facilities*

1. The declaration of chemical weapons production facilities by a State Party pursuant to Article III, paragraph 1 (c) (ii), shall contain for each facility :

(a) The name of the facility, the names of the owners, and the names of the companies or enterprises operating the facility since 1 January 1946;

(b) The precise location of the facility, including the address, location of the complex, location of the facility within the complex including the specific building and structure number, if any;

(c) A statement whether it is a facility for the manufacture of chemicals that are defined as chemical weapons or whether it is a facility for the filling of chemical weapons, or both;

(d) The date when the construction of the facility was completed and the periods during which any modifications to the facility were made, including the installation of new or modified equipment, that significantly changed the production process characteristics of the facility;

(e) Information on the chemicals defined as chemical weapons that were manufactured at the facility; the munitions, devices, and containers that were filled at the facility; and the dates of the beginning and cessation of such manufacture or filling :

(i) For chemicals defined as chemical weapons that were manufactured at the facility, such information shall be expressed in terms of the specific types of chemicals manufactured, indicating the chemical name in accordance with the current International Union of Pure and Applied Chemistry (IUPAC) nomenclature, structural formula, and the Chemical Abstracts Service registry number, if assigned, and in terms of the amount of each chemical expressed by weight of chemical in tonnes;

(ii) For munitions, devices and containers that were filled at the facility, such information shall be expressed in terms of the specific type of chemical weapons filled and the weight of the chemical fill per unit;

(f) The production capacity of the chemical weapons production facility:

(i) For a facility where chemical weapons were manufactured, production capacity shall be expressed in terms of the annual quantitative potential for manufacturing a specific substance on the basis of the technological process actually used or, in the case of processes not actually used, planned to be used at the facility;

(ii) For a facility where chemical weapons were filled, production capacity shall be expressed in terms of the quantity of chemical that the facility can fill into each specific type of chemical weapon a year;

(g) For each chemical weapons production facility that has not been destroyed, a description of the facility including :

(i) A site diagram;

(ii) A process flow diagram of the facility; and

(iii) An inventory of buildings at the facility, and specialized equipment at the facility and of any spare parts for such equipment;

(h) The present status of the facility, stating:

(i) The date when chemical weapons were last produced at the facility;

(ii) Whether the facility has been destroyed, including the date and manner of its destruction; and

(iii) Whether the facility has been used or modified before entry into force of this Convention for an activity not related to the production of chemical weapons, and if so, information on what modifications have been made, the date such non-chemical weapons related activity began and the nature of such activity, indicating, if applicable, the kind of product;

(i) A specification of the measures that have been taken by the State Party for closure of, and a description of the measures that have been or will be taken by the State Party to inactivate the facility;

(j) A description of the normal pattern of activity for safety and security at the inactivated facility; and

(k) A statement as to whether the facility will be converted for the destruction of chemical weapons and, if so, the dates for such conversions.

*Declarations of chemical weapons production facilities pursuant to Article III,  
paragraph 1 (c) (iii)*

2. The declaration of chemical weapons production facilities pursuant to Article III, paragraph 1 (c) (iii), shall contain all information specified in paragraph 1 above. It is the responsibility of the State Party on whose territory the facility is or has been located to make appropriate arrangements with the other State to ensure that the declarations are made. If the State Party on whose territory the facility is or has been located is not able to fulfil this obligation, it shall state the reasons therefor.

*Declarations of past transfers and receipts*

3. A State Party that has transferred or received chemical weapons production equipment since 1st January, 1946 shall declare these transfers and receipts pursuant to Article III, paragraph 1 (c) (iv), and in accordance with paragraph 5 below. When not all the specified information is available for transfer and receipt of such equipment for the period between 1 January 1946 and 1 January 1970, the State Party shall declare whatever information is still available to it and provide an explanation as to why it cannot submit a full declaration.

4. Chemical weapons production equipment referred to in paragraph 3 means:

(a) Specialized equipment;

(b) Equipment for the production of equipment specifically designed for use directly in connection with chemical weapons employment; and

(c) Equipment designed or used exclusively for producing non-chemical parts for chemical munitions.

5. The declaration concerning transfer and receipt of chemical weapons production equipment shall specify:

(a) Who received / transferred the chemical weapons production equipment;

(b) The identity of such equipment;

(c) The date of transfer or receipt;

(d) Whether the equipment was destroyed, if known; and

(e) Current disposition, if known.

*Submission of general plans for destruction*

6. For each chemical weapons production facility, a State Party shall supply the following information:

- (a) Envisaged time-frame for measures to be taken; and
- (b) Methods of destruction.

7. For each chemical weapons production facility that a State Party intends to convert temporarily into a chemical weapons destruction facility, the State Party shall supply the following information:

- (a) Envisaged time-frame for conversion into a destruction facility;
- (b) Envisaged time-frame for utilizing the facility as a chemical weapons destruction facility;
- (c) Description of the new facility;
- (d) Method of destruction of special equipment;
- (e) Time-frame for destruction of the converted facility after it has been utilized to destroy chemical weapons; and
- (f) Method of destruction of the converted facility.

*Submission of annual plans for destruction and annual reports on destruction*

8. The State Party shall submit an annual plan for destruction not less than 90 days before the beginning of the coming destruction year. The annual plan shall specify:

- (a) Capacity to be destroyed;
- (b) Name and location of the facilities where destruction will take place;
- (c) List of buildings and equipment that will be destroyed at each facility; and
- (d) Planned method(s) of destruction.

9. A State Party shall submit an annual report on destruction not later than 90 days after the end of the previous destruction year. The annual report shall specify:

- (a) Capacity destroyed;
- (b) Name and location of each facility where destruction took place;
- (c) List of buildings and equipment that were destroyed at each facility;
- (d) Methods of destruction.

10. For a chemical weapons production facility declared pursuant to Article III, paragraph 1(c) (iii), it is the responsibility of the State Party on whose territory the facility is or has been located to make appropriate arrangements to ensure that the declarations specified in paragraphs 6 to 9 above are made. If the State Party on whose territory the facility is or has been located is not able to fulfil this obligation, it shall state the reasons therefor.

**B. DESTRUCTION***General principles for destruction of chemical weapons production facilities*

11. Each State Party shall decide on methods to be applied for the destruction of chemical weapons production facilities, according to the principles laid down in Article V and in this Part.

*Principles and methods for closure of a chemical weapons production facility*

12. The purpose of the closure of a chemical weapons production facility is to render it inactive.

13. Agreed measures for closure shall be taken by a State Party with due regard to the specific characteristics of each facility. Such measures shall include, *inter alia*:

- (a) Prohibition of occupation of the specialized buildings and standard buildings of the facility except for agreed activities;
- (b) Disconnection of equipment directly related to the production of chemical weapons, including, *inter alia*, process control equipment and utilities;
- (c) Decommissioning of protective installations and equipment used exclusively for the safety of operations of the chemical weapons production facility;
- (d) Installation of blind flanges and other devices to prevent the addition of chemicals to, or the removal of chemicals from, any specialized process equipment for synthesis, separation or purification of chemicals defined as a chemical weapon, any storage tank, or any machine for filling chemical weapons, the heating, cooling, or supply of electrical or other forms of power to such equipment, storage tanks, or machines; and
- (e) Interruption of rail, road and other access routes for heavy transport to the chemical weapons production facility except those required for agreed activities.

14. While the chemical weapons production facility remains closed, a State Party may continue safety and physical security activities at the facility.

*Technical maintenance of chemical weapons production facilities prior to their destruction*

15. A State Party may carry out standard maintenance activities at chemical weapons production facilities only for safety reasons, including visual inspection, preventive maintenance, and routine repairs.

16. All planned maintenance activities shall be specified in the general and detailed plans for destruction. Maintenance activities shall not include:

- (a) Replacement of any process equipment;
- (b) Modification of the characteristics of the chemical process equipment;
- (c) Production of chemicals of any type.

17. All maintenance activities shall be subject to monitoring by the Technical Secretariat.

*Principles and methods for temporary conversion of chemical weapons production facilities into chemical weapons destruction facilities*

18. Measures pertaining to the temporary conversion of chemical weapons production facilities into chemical weapons destruction facilities shall ensure that the regime for the temporarily converted facilities is at least as stringent as the regime for chemical weapons production facilities that have not been converted.

19. Chemical weapons production facilities converted into chemical weapons destruction facilities before entry into force of this Convention shall be declared under the category of chemical weapons production facilities.

They shall be subject to an initial visit by inspectors, who shall confirm the correctness of the information about these facilities. Verification that the conversion of these facilities was performed in such a manner as to render them inoperable as chemical weapons production facilities shall also be required, and shall fall within the framework of measures provided for the facilities that are to be rendered inoperable not later than 90 days after entry into force of this Convention.

20. A State Party that intends to carry out a conversion of chemical weapons production facilities shall submit to the Technical Secretariat, not later than 30 days after this Convention enters into force for it, or not later than 30 days after a decision has been taken for temporary conversion, a general facility conversion plan, and subsequently shall submit annual plans.

21. Should a State Party have the need to convert to a chemical weapons destruction facility an additional chemical weapons production facility that had been closed after this Convention entered into force for it, it shall inform the Technical Secretariat thereof not less than 150 days before conversion. The Technical Secretariat, in conjunction with the State Party, shall make sure that the necessary measures are taken to render that facility, after its conversion, inoperable as a chemical weapons production facility.

22. A facility converted for the destruction of chemical weapons shall not be more fit for resuming chemical weapons production than a chemical weapons production facility which has been closed and is under maintenance. Its reactivation shall require no less time than that required for a chemical weapons production facility that has been closed and is under maintenance.

23. Converted chemical weapons production facilities shall be destroyed not later than 10 years after entry into force of this Convention.

24. Any measures for the conversion of any given chemical weapons production facility shall be facility-specific and shall depend upon its individual characteristics.

25. The set of measures carried out for the purpose of converting a chemical weapons production facility into a chemical weapons destruction facility shall not be less than that which is provided for the disabling of other chemical weapons production facilities to be carried out not later than 90 days after this Convention enters into force for the State Party.

*Principles and methods related to destruction of a chemical weapons production facility*

26. A State Party shall destroy equipment and buildings covered by the definition of a chemical weapons production facility as follows:

(a) All specialized equipment and standard equipment shall be physically destroyed;

(b) All specialized buildings and standard buildings shall be physically destroyed.

27. A State Party shall destroy facilities for producing unfilled chemical munitions and equipment for chemical weapons employment as follows:

(a) Facilities used exclusively for production of non-chemical parts for chemical munitions or equipment specifically designed for use directly in connection with chemical weapons employment, shall be declared and destroyed. The destruction process and its verification shall be conducted according to the provisions of Article V and this Part of this Annex that govern destruction of chemical weapons production facilities;

(b) All equipment designed or used exclusively for producing non-chemical parts for chemical munitions shall be physically destroyed. Such equipment, which includes specially designed moulds and metal-forming dies, may be brought to a special location for destruction;

(c) All buildings and standard equipment used for such production activities shall be destroyed or converted for purposes not prohibited under this Convention, with confirmation, as necessary, through consultations and inspections as provided for under Article IX;

(d) Activities for purposes not prohibited under this Convention may continue while destruction or conversion proceeds.

*Order of destruction*

28. The order of destruction of chemical weapons production facilities is based on the obligations specified in Article I and the other Articles of this Convention, including obligations regarding systematic on-site verification. It takes into account interests of States Parties for undiminished security during the destruction period; confidence-building in the

early part of the destruction stage; gradual acquisition of experience in the course of destroying chemical weapons production facilities; and applicability irrespective of the actual characteristics of the facilities and the methods chosen for their destruction. The order of destruction is based on the principle of levelling out.

29. A State Party shall, for each destruction period, determine which chemical weapons production facilities are to be destroyed and carry out the destruction in such a way that not more than what is specified in paragraphs 30 and 31 remains at the end of each destruction period. A State Party is not precluded from destroying its facilities at a faster pace.

30. The following provisions shall apply to chemical weapons production facilities that produce Schedule 1 chemicals:

(a) A State Party shall start the destruction of such facilities not later than one year after this Convention enters into force for it, and shall complete it not later than ten years after entry into force of this Convention. For a State which is a Party at the entry into force of this Convention, this overall period shall be divided into three separate destruction periods, namely, years 2-5, years 6-8, and years 9-10. For States which become a Party after entry into force of this Convention, the destruction periods shall be adapted, taking into account paragraphs 28 and 29;

(b) Production capacity shall be used as the comparison factor for such facilities. It shall be expressed in agent tonnes, taking into account the rules specified for binary chemical weapons;

(c) Appropriate agreed levels of production capacity shall be established for the end of the eighth year after entry into force of this Convention. Production capacity that exceeds the relevant level shall be destroyed in equal increments during the first two destruction periods;

(d) A requirement to destroy a given amount of capacity shall entail a requirement to destroy any other chemical weapons production facility that supplied the Schedule 1 facility or filled the Schedule 1 chemical produced there into munitions or devices;

(e) Chemical weapons production facilities that have been converted temporarily for destruction of chemical weapons shall continue to be subject to the obligation to destroy capacity according to the provisions of this paragraph.

31. A State Party shall start the destruction of chemical weapons production facilities not covered in paragraph 30 not later than one year after this Convention enters into force for it, and complete it not later than five years after entry into force of this Convention.

#### *Detailed plans for destruction*

32. Not less than 180 days before the destruction of a chemical weapons production facility starts, a State Party shall provide to the Technical Secretariat the detailed plans for destruction of the facility, including proposed measures for verification of destruction referred to in paragraph 33 (f), with respect to, *inter alia*:

(a) Timing of the presence of the inspectors at the facility to be destroyed; and

(b) Procedures for verification of measures to be applied to each item on the declared inventory.

33. The detailed plans for destruction of each chemical weapons production facility shall contain:

(a) Detailed time schedule of the destruction process;

(b) Layout of the facility;

(c) Process flow diagram;

- (d) Detailed inventory of equipment, buildings and other items to be destroyed;
  - (e) Measures to be applied to each item on the inventory;
  - (f) Proposed measures for verification;
  - (g) Security/safety measures to be observed during the destruction of the facility;
- and
- (h) Working and living conditions to be provided for inspectors.

34. If a State Party intends to convert temporarily a chemical weapons production facility into a chemical weapons destruction facility, it shall notify the Technical Secretariat not less than 150 days before undertaking any conversion activities. The notification shall:

- (a) Specify the name, address, and location of the facility;
- (b) Provide a site diagram indicating all structures and areas that will be involved in the destruction of chemical weapons and also identify all structures of the chemical weapons production facility that are to be temporarily converted;
- (c) Specify the types of chemical weapons, and the type and quantity of chemical fill to be destroyed;
- (d) Specify the destruction method;
- (e) Provide a process flow diagram, indicating which portions of the production process and specialized equipment will be converted for the destruction of chemical weapons;
- (f) Specify the seals and inspection equipment potentially affected by the conversion, if applicable; and
- (g) Provide a schedule identifying : The time allocated to design, temporary conversion of the facility, installation of equipment, equipment check-out, destruction operations, and closure.

35. In relation to the destruction of a facility that was temporarily converted for destruction of chemical weapons, information shall be provided in accordance with paragraphs 32 and 33.

#### *Review of detailed plans*

36. On the basis of the detailed plan for destruction and proposed measures for verification submitted by the State Party, and on experience from previous inspections, the Technical Secretariat shall prepare a plan for verifying the destruction of the facility, consulting closely with the State Party. Any differences between the Technical Secretariat and the State Party concerning appropriate measures should be resolved through consultations. Any unresolved matters shall be forwarded to the Executive Council for appropriate action with a view to facilitating the full implementation of this Convention.

37. To ensure that the provisions of Article V and this Part are fulfilled, the combined plans for destruction and verification shall be agreed upon between the Executive Council and the State Party. This agreement should be completed, not less than 60 days before the planned initiation of destruction.

38. Each member of the Executive Council may consult with the Technical Secretariat on any issues regarding the adequacy of the combined plan for destruction and verification. If there are no objections by any member of the Executive Council, the plan shall be put into action.

39. If there are any difficulties, the Executive Council shall enter into consultations with the State Party to reconcile them. If any difficulties remain unresolved they shall be referred to the Conference. The resolution of any differences over methods of destruction shall not delay the execution of other parts of the destruction plan that are acceptable.

40. If agreement is not reached with the Executive Council on aspects of verification,

or if the approved verification plan cannot be put into action, verification of destruction shall proceed through continuous monitoring with on-site instruments and physical presence of inspectors.

41. Destruction and verification shall proceed according to the agreed plan. The verification shall not unduly interfere with the destruction process and shall be conducted through the presence of inspectors on-site to witness the destruction.

42. If required verification or destruction actions are not taken as planned, all States Parties shall be so informed.

### C. VERIFICATION

#### *Verification of declarations of chemical weapons production facilities through on-site inspection*

43. The Technical Secretariat shall conduct an initial inspection of each chemical weapons production facility in the period between 90 and 120 days after this Convention enters into force for the State Party.

44. The purposes of the initial inspection shall be:

- (a) To confirm that the production of chemical weapons has ceased and that the facility has been inactivated in accordance with this Convention;
- (b) To permit the Technical Secretariat to familiarize itself with the measures that have been taken to cease production of chemical weapons at the facility;
- (c) To permit the inspectors to install temporary seals;
- (d) To permit the inspectors to confirm the inventory of buildings and specialized equipment;
- (e) To obtain information necessary for planning inspection activities at the facility, including use of tamper-indicating seals and other agreed equipment, which shall be installed pursuant to the detailed facility agreement for the facility; and
- (f) To conduct preliminary discussions regarding a detailed agreement on inspection procedures at the facility.

45. Inspectors shall employ, as appropriate, agreed seals, markers or other inventory control procedures to facilitate an accurate inventory of the declared items at each chemical weapons production facility.

46. Inspectors shall install such agreed devices as may be necessary to indicate if any resumption of production of chemical weapons occurs or if any declared item is removed. They shall take the necessary precaution not to hinder closure activities by the inspected State Party. Inspectors may return to maintain and verify the integrity of the devices.

47. If, on the basis of the initial inspection, the Director-General believes that additional measures are necessary to inactivate the facility in accordance with this Convention, the Director-General may request, not later than 135 days after this Convention enters into force for a State Party, that such measures be implemented by the inspected State Party not later than 180 days after this Convention enters into force for it. At its discretion, the inspected State Party may satisfy the request. If it does not satisfy the request, the inspected State Party and the Director-General shall consult to resolve the matter.

#### *Systematic verification of chemical weapons production facilities and cessation of their activities*

48. The purpose of the systematic verification of a chemical weapons production facility shall be to ensure that any resumption of production of chemical weapons or removal of declared items will be detected at this facility.

49. The detailed facility agreement for each chemical weapons production facility shall specify:

(a) Detailed on-site inspection procedures, which may include:

- (i) Visual examinations;
- (ii) Checking and servicing of seals and other agreed devices; and
- (iii) Obtaining and analysing samples;

(b) Procedures for using tamper-indicating seals and other agreed equipment to prevent the undetected reactivation of the facility, which shall specify:

- (i) The type, placement, and arrangements for installation; and
- (ii) The maintenance of such seals and equipment; and

(c) Other agreed measures.

50. The seals or other approved equipment provided for in a detailed agreement on inspection measures for that facility shall be placed not later than 240 days after this Convention enters into force for a State Party. Inspectors shall be permitted to visit each chemical weapons production facility for the installation of such seals or equipment.

51. During each calendar year, the Technical Secretariat shall be permitted to conduct up to four inspections of each chemical weapons production facility.

52. The Director-General shall notify the inspected State Party of his decision to inspect or visit a chemical weapons production facility 48 hours before the planned arrival of the inspection team at the facility for systematic inspections or visits. In the case of inspections or visits to resolve urgent problems, this period may be shortened. The Director-General shall specify the purpose of the inspection or visit.

53. Inspectors shall, in accordance with the facility agreements, have unimpeded access to all parts of the chemical weapons production facilities. The items on the declared inventory to be inspected shall be chosen by the inspectors.

54. The guidelines for determining the frequency of systematic on-site inspections shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i). The particular production facility to be inspected shall be chosen by the Technical Secretariat in such a way as to preclude the prediction of precisely when the facility is to be inspected.

*Verification of destruction of chemical weapons production facilities*

55. The purpose of systematic verification of the destruction of chemical weapons production facilities shall be to confirm that the facility is destroyed in accordance with the obligations under this Convention and that each item on the declared inventory is destroyed in accordance with the agreed detailed plan for destruction.

56. When all items on the declared inventory have been destroyed, the Technical Secretariat shall confirm the declaration of the State Party to that effect. After this confirmation, the Technical Secretariat shall terminate the systematic verification of the chemical weapons production facility and shall promptly remove all devices and monitoring instruments installed by the inspectors.

57. After this confirmation, the State Party shall make the declaration that the facility has been destroyed.

*Verification of temporary conversion of a chemical weapons production facility into a chemical weapons destruction facility*

58. Not later than 90 days after receiving the initial notification of the intent to convert temporarily a production facility, the inspectors shall have the right to visit the facility to familiarize themselves with the proposed temporary conversion and to study possible inspection measures that will be required during the conversion.

59. Not later than 60 days after such a visit, the Technical Secretariat and the inspected State Party shall conclude a transition agreement containing additional inspection measures for the temporary conversion period. The transition agreement shall specify inspection

procedures, including the use of seals, monitoring equipment, and inspections, that will provide confidence that no chemical weapons production takes place during the conversion process. This agreement shall remain in force from the beginning of the temporary conversion activity until the facility begins operation as a chemical weapons destruction facility.

60. The inspected State Party shall not remove or convert any portion of the facility, or remove or modify any seal or other agreed inspection equipment that may have been installed pursuant to this Convention until the transition agreement has been concluded.

61. Once the facility begins operation as a chemical weapons destruction facility, it shall be subject to the provisions of Part IV(A) of this Annex applicable to chemical weapons destruction facilities. Arrangements for the pre-operation period shall be governed by the transition agreement.

62. During destruction operations the inspectors shall have access to all portions of the temporarily converted chemical weapons production facilities, including those that are not directly involved with the destruction of chemical weapons.

63. Before the commencement of work at the facility to convert it temporarily for chemical weapons destruction purposes and after the facility has ceased to function as a facility for chemical weapons destruction, the facility shall be subject to the provisions of this Part applicable to chemical weapons production facilities.

**D. CONVERSION OF CHEMICAL WEAPONS PRODUCTION FACILITIES TO PURPOSES  
NOT PROHIBITED UNDER THIS CONVENTION**

*Procedures for requesting conversion*

64. A request to use a chemical weapons production facility for purposes not prohibited under this Convention may be made for any facility that a State Party is already using for such purposes before this Convention enters into force for it, or that it plans to use for such purposes.

65. For a chemical weapons production facility that is being used for purposes not prohibited under this Convention when this Convention enters into force for the State Party, the request shall be submitted to the Director-General not later than 30 days after this Convention enters into force for the State Party. The request shall contain, in addition to data submitted in accordance with paragraph 1(h) (iii), the following information:

- (a) A detailed justification for the request;
- (b) A general facility conversion plan that specifies:
  - (i) The nature of the activity to be conducted at the facility;
  - (ii) If the planned activity involves production, processing, or consumption of chemicals: the name of each of the chemicals, the flow diagram of the facility, and the quantities planned to be produced, processed, or consumed annually;
  - (iii) Which buildings or structures are proposed to be used and what modifications are proposed, if any;
  - (iv) Which buildings or structures have been destroyed or are proposed to be destroyed and the plans for destruction;
  - (v) What equipment is to be used in the facility;
  - (vi) What equipment has been removed and destroyed and what equipment is proposed to be removed and destroyed and the plans for its destruction;
  - (vii) The proposed schedule for conversion, if applicable;
  - (viii) The nature of the activity of each other facility operating at the site; and
- (c) A detailed explanation of how measures set forth in sub-paragraph (b), as

well as any other measures proposed by the State Party, will ensure the prevention of standby chemical weapons production capability at the facility.

66. For a chemical weapons production facility that is not being used for purposes not prohibited under this Convention when this Convention enters into force for the State Party, the request shall be submitted to the Director-General not later than 30 days after the decision to convert, but in no case later than four years after this Convention enters into force for the State Party. The request shall contain the following information:

- (a) A detailed justification for the request, including its economic needs;
- (b) A general facility conversion plan that specifies:
  - (i) The nature of the activity planned to be conducted at the facility;
  - (ii) If the planned activity involves production, processing, or consumption of chemicals: the name of each of the chemicals, the flow diagram of the facility, and the quantities planned to be produced, processed, or consumed annually;
  - (iii) Which buildings or structures are proposed to be retained and what modifications are proposed, if any;
  - (iv) Which buildings or structures have been destroyed or are proposed to be destroyed and the plans for destruction;
  - (v) What equipment is proposed for use in the facility;
  - (vi) What equipment is proposed to be removed and destroyed and the plans for its destruction;
  - (vii) The proposed schedule for conversion; and
  - (viii) The nature of the activity of each other facility operating at the site; and
- (c) A detailed explanation of how the measures set forth in sub-paragraph (b), as well as any other measures proposed by the State Party, will ensure the prevention of standby chemical weapons production capability at the facility.

67. The State Party may propose in its request any other measures it deems appropriate to build confidence.

#### *Actions pending a decision*

68. Pending a decision of the Conference, a State Party may continue to use for purposes not prohibited under this Convention a facility that was being used for such purposes before this Convention enters into force for it; but only if the State Party certifies in its request that no specialized equipment and no specialized buildings are being used and that the specialized equipment and specialized buildings have been rendered inactive using the methods specified in paragraph 13.

69. If the facility, for which the request was made, was not being used for purposes not prohibited under this Convention before this Convention enters into force for the State Party, or if the certification required in paragraph 68 is not made, the State Party shall cease immediately all activity pursuant to Article V, paragraph 4. The State Party shall close the facility in accordance with paragraph 13 not later than 90 days after this Convention enters into force for it.

#### *Conditions for conversion*

70. As a condition for conversion of a chemical weapons production facility for purposes not prohibited under this Convention, all specialized equipment at the facility must be destroyed and all special features of buildings and structures that distinguish them from buildings and structures normally used for purposes not prohibited under this Convention and not involving Schedule 1 chemicals must be eliminated.

71. A converted facility shall not be used:

(a) For any activity involving production, processing, or consumption of a Schedule 1 chemical or a Schedule 2 chemical; or

(b) For the production of any highly toxic chemical, including any highly toxic phosphorous chemical, or for any other activity that would require special equipment for handling highly toxic or highly corrosive chemicals, unless the Executive Council decides that such production or activity would pose no risk to the object and purpose of this Convention, taking into account criteria for toxicity, corrosiveness and, if applicable, other technical factors, to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

72. Conversion of a chemical weapons production facility shall be completed not later than six years after entry into force of this Convention.

*Decisions by the Executive Council and the Conference*

73. Not later than 90 days after receipt of the request by the Director-General, an initial inspection of the facility shall be conducted by the Technical Secretariat. The purpose of this inspection shall be to determine the accuracy of the information provided in the request, to obtain information on the technical characteristics of the proposed converted facility, and to assess the conditions under which use for purposes not prohibited under this Convention may be permitted. The Director-General shall promptly submit a report to the Executive Council, the Conference, and all States Parties containing his recommendations on the measures necessary to convert the facility to purposes not prohibited under this Convention and to provide assurance that the converted facility will be used only for purposes not prohibited under this Convention.

74. If the facility has been used for purposes not prohibited under this Convention before this Convention enters into force for the State Party, and is continuing to be in operation, but the measures required to be certified under paragraph 68 have not been taken, the Director-General shall immediately inform the Executive Council, which may require implementation of measures it deems appropriate, *inter alia*, shut-down of the facility and removal of specialized equipment and modification of buildings or structures. The Executive Council shall stipulate the deadline for implementation of these measures and shall suspend consideration of the request pending their satisfactory completion. The facility shall be inspected promptly after the expiration of the deadline to determine whether the measures have been implemented. If not, the State Party shall be required to shut-down completely all facility operations.

75. As soon as possible after receiving the report of the Director-General, the Conference, upon recommendation of the Executive Council, shall decide, taking into account the report and any views expressed by States Parties, whether to approve the request, and shall establish the conditions upon which approval is contingent. If any State Party objects to approval of the request and the associated conditions, consultations shall be undertaken among interested States Parties for up to 90 days to seek a mutually acceptable solution. A decision on the request and associated conditions, along with any proposed modifications thereto, shall be taken, as a matter of substance, as soon as possible after the end of the consultation period.

76. If the request is approved, a facility agreement shall be completed not later than 90 days after such a decision is taken. The facility agreement shall contain the conditions under which the conversion and use of the facility is permitted, including measures for verification. Conversion shall not begin before the facility agreement is concluded.

*Detailed plans for conversion*

77. Not less than 180 days before conversion of a chemical weapons production facility is planned to begin, the State Party shall provide the Technical Secretariat with the

detailed plans for conversion of the facility, including proposed measures for verification of conversion, with respect to, *inter alia*:

(a) Timing of the presence of the inspectors at the facility to be converted; and

(b) Procedures for verification of measures to be applied to each item on the declared inventory.

78. The detailed plan for conversion of each chemical weapons production facility shall contain:

(a) Detailed time schedule of the conversion process;

(b) Layout of the facility before and after conversion;

(c) Process flow diagram of the facility before, and as appropriate, after the conversion;

(d) Detailed inventory of equipment, buildings and structures and other items to be destroyed and of the buildings and structures to be modified;

(e) Measures to be applied to each item on the inventory, if any;

(f) Proposed measures for verification;

(g) Security/safety measures to be observed during the conversion of the facility; and

(h) Working and living conditions to be provided for inspectors.

#### *Review of detailed plans*

79. On the basis of the detailed plan for conversion and proposed measures for verification submitted by the State Party, and on experience from previous inspections, the Technical Secretariat shall prepare a plan for verifying the conversion of the facility, consulting closely with the State Party. Any differences between the Technical Secretariat and the State Party concerning appropriate measures shall be resolved through consultations. Any unresolved matters shall be forwarded to the Executive Council for appropriate action with a view to facilitate the full implementation of this Convention.

80. To ensure that the provisions of Article V and this Part are fulfilled, the combined plans for conversion and verification shall be agreed upon between the Executive Council and the State Party. This agreement shall be completed not less than 60 days before conversion is planned to begin.

81. Each member of the Executive Council may consult with the Technical Secretariat on any issue regarding the adequacy of the combined plan for conversion and verification. If there are no objections by any member of the Executive Council, the plan shall be put into action.

82. If there are any difficulties, the Executive Council should enter into consultations with the State Party to reconcile them. If any difficulties remain unresolved, they should be referred to the Conference. The resolution of any differences over methods of conversion should not delay the execution of other parts of the conversion plan that are acceptable.

83. If agreement is not reached with the Executive Council on aspects of verification, or if the approved verification plan cannot be put into action, verification of conversion shall proceed through continuous monitoring with on-site instruments and physical presence of inspectors.

84. Conversion and verification shall proceed according to the agreed plan. The verification shall not unduly interfere with the conversion process and shall be conducted through the presence of inspectors to confirm the conversion.

85. For the 10 years after the Director-General certifies that conversion is complete, the State Party shall provide to inspectors unimpeded access to the facility at any time. The inspectors shall have the right to observe all areas, all activities, and all items of equipment at the facility. The inspectors shall have the right to verify that the activities at the facility are consistent with any conditions established under this Section, by the Executive Council and the Conference. The inspectors shall also have the right, in accordance with provisions of Part II, Section E, of the Annex to receive samples from any area of the facility and to analyse them to verify the absence of Schedule 1 chemicals, their stable by products and decomposition products and of Schedule 2 chemicals and to verify that the activities at the facility are consistent with any other conditions on chemical activities established under this Section, by the Executive Council and the Conference. The inspectors shall also have the right to managed access, in accordance with Part X, Section C, of this Annex, to the plant site at which the facility is located. During the 10-year period, the State Party shall report annually on the activities at the converted facility. Upon completion of the 10-year period, the Executive Council, taking into account recommendations of the Technical Secretariat, shall decide on the nature of continued verification measures.

86. Costs of verification of the converted facility shall be allocated in accordance with Article V, paragraph 19.

**PART VI****ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI REGIME FOR SCHEDULE 1 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS****A. GENERAL PROVISIONS**

1. A State Party shall not produce, acquire, retain or use Schedule 1 chemicals outside the territories of States Parties and shall not transfer such chemicals outside its territory except to another State Party.
2. A State Party shall not produce, acquire, retain, transfer or use Schedule 1 chemicals unless:
  - (a) The chemicals are applied to research, medical, pharmaceutical or protective purposes; and
  - (b) The types and quantities of chemicals are strictly limited to those which can be justified for such purposes; and
  - (c) The aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 tonne; and
  - (d) The aggregate amount for such purposes acquired by a State Party in any year through production, withdrawal from chemical weapons stocks and transfer is equal to or less than 1 tonne.

**B. TRANSFERS**

3. A State may transfer Schedule 1 chemicals outside its territory only to another State Party and only for research, medical, pharmaceutical or protective purposes in accordance with paragraph 2.
4. Chemicals transferred shall not be retransferred to a third State.
5. Not less than 30 days before any transfer to another State Party both States Parties shall notify the Technical Secretariat of the transfer.
6. Each State Party shall make a detailed annual declaration regarding transfers during the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall for each Schedule 1 chemical that has been transferred include the following information:
  - (a) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
  - (b) The quantity acquired from other States or transferred to other States Parties. For each transfer the quantity, recipient and purpose shall be included.

**C. PRODUCTION***General principles for production*

7. Each State Party, during production under paragraphs 8 to 12, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall conduct such production in accordance with its national standards for safety and emissions.

*Single small-scale facility*

8. Each State Party that produces Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes shall carry out the production at a single small-scale facility approved by the State Party, except as set forth in paragraphs 10, 11 and 12.

9. The production at a single small-scale facility shall be carried out in reaction vessels in production lines not configured for continuous operation. The volume of such a reaction vessel shall not exceed 100 litres, and the total volume of all reaction vessels with a volume exceeding 5 litres shall not be more than 500 litres.

*Other facilities*

10. Production of Schedule 1 chemicals in aggregate quantities not exceeding 10 kg per year may be carried out for protective purposes at one facility outside a single small-scale facility. This facility shall be approved by the State Party.

11. Production of Schedule 1 chemicals in quantities of more than 100g per year may be carried out for research, medical or pharmaceutical purposes outside a single small-scale facility in aggregate quantities not exceeding 10 kg per year facility. These facilities shall be approved by the State Party.

12. Synthesis of Schedule 1 chemicals for research, medical or pharmaceutical purposes, but not for protective purposes, may be carried out at laboratories in aggregate quantities less than 100g per year per facility. These facilities shall not be subject to any obligation relating to declaration and verification as specified in Sections D and E.

**D. DECLARATIONS***Single small-scale facility*

13. Each State Party that plans to operate a single small-scale facility shall provide the Technical Secretariat with the precise location and a detailed technical description of the facility, including an inventory of equipment and detailed diagrams. For existing facilities, this initial declaration shall be provided not later than 30 days after this Convention enters into force for the State Party. Initial declarations on new facilities shall be provided not less than 180 days before operations are to begin.

14. Each State Party shall give advance notification to the Technical Secretariat of planned changes related to the initial declaration. The notification shall be submitted not less than 180 days before the changes are to take place.

15. A State Party producing Schedule 1 chemicals at a single small-scale facility shall make a detailed annual declaration regarding the activities of the facility for the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical produced, acquired, consumed or stored at the facility, the following information:—

(i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(ii) The methods employed and quantity produced;

(iii) The name and quantity of precursors listed in Schedules 1, 2 or 3 used for production of Schedule 1 chemicals;

(iv) The quantity consumed at the facility and the purpose(s) of the consumption;

(v) The quantity received from or shipped to other facilities in the State Party. For each shipment the quantity, recipient and purpose should be included;

(vi) The maximum quantity stored at any time during the year; and

(vii) The quantity stored at the end of the year; and

(c) Information on any changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams.

16. Each State Party producing Schedule 1 chemicals at a single small-scale facility shall make a detailed annual declaration regarding the projected activities and the anticipated production at the facility for the coming year. The declaration shall be submitted not less than 90 days before the beginning of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical anticipated to be produced, consumed or stored at the facility, the following information:

(i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(ii) The quantity anticipated to be produced and the purpose of the production; and

(c) Information on any anticipated changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams.

*Other facilities referred to in paragraphs 10 and 11*

17. For each facility, a State Party shall provide the Technical Secretariat with the name, location and a detailed technical description of the facility or its relevant part(s) as requested by the Technical Secretariat. The facility producing Schedule 1 chemicals for protective purposes shall be specifically identified. For existing facilities, this initial declaration shall be provided not later than 30 days after this Convention enters into force for the State Party. Initial declarations on new facilities shall be provided not less than 180 days before operations are to begin.

18. Each State Party shall give advance notification to the Technical Secretariat of planned changes related to the initial declaration. The notification shall be submitted not less than 180 days before the changes are to take place.

19. Each State Party shall, for each facility, make a detailed annual declaration regarding the activities of the facility for the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall include:

(a) Identification of the facility;

(b) For each Schedule 1 chemical the following information:

(i) The Chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;

(ii) The quantity produced and, in case of production for protective purposes, methods employed;

(iii) The name and quantity of precursors listed in Schedules 1, 2 or 3 used for production of Schedule 1 chemicals;

(iv) The quantity consumed at the facility and the purpose of the consumption;

(v) The quantity transferred to other facilities within the State Party. For each transfer the quantity, recipient and purpose should be included;

(vi) The maximum quantity stored at any time during the year; and

(vii) The quantity stored at the end of the year; and

(c) Information on any changes at the facility or its relevant parts during the year compared to previously submitted detailed technical description of the facility.

20. Each State Party shall, for each facility, make a detailed annual declaration regarding the projected activities and the anticipated production at the facility for the coming year the

declaration shall be submitted not less than 90 days before the beginning of that year and shall include:

- (a) Identification of the facility;
- (b) For each Schedule 1 chemical the following information:
  - (i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned; and
  - (ii) The quantity anticipated to be produced, the time periods when the production is anticipated to take place and the purposes of the production, and
  - (c) Information on any anticipated changes at the facility or its relevant parts, during the year compared to previously submitted detailed technical descriptions of the facility.

#### E. VERIFICATION

##### *Single small-scale facility*

21. The aim of verification activities at the single small-scale facility shall be to verify that the quantities of Schedule 1 chemicals produced are correctly declared and, in particular, that their aggregate amount does not exceed 1 tonne.

22. The facility shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments.

23. The number, intensity, duration, timing and mode of inspections for a particular facility shall be based on the risk to the object and purpose of this Convention posed by the relevant chemicals, the characteristics of the facility and the nature of the activities carried out there. Appropriate guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

24. The purpose of the initial inspection shall be to verify information provided concerning the facility, including verification of the limits on reaction vessels set forth in paragraph 9.

25. Not later than 180 days after this Convention enters into force for a State Party, it shall conclude a facility agreement, based on a model agreement, with the Organization, covering detailed inspection procedures for the facility.

26. Each State Party Planning to establish a single small-scale facility after this Convention enters into force for it shall conclude a facility agreement, based on a model agreement, with the Organization, covering detailed inspection procedures for the facility before it begins operation or is used.

27. A model for agreements shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

##### *Other facilities referred to in paragraphs 10 and 11*

28. The aim of verification activities at any facility referred to in paragraphs 10 and 11 shall be to verify that:

- (a) The facility is not used to produce any Schedule 1 chemical, except for the declared chemicals;
- (b) The quantities of Schedule 1 chemicals produced, processed or consumed are correctly declared and consistent with needs for the declared purpose; and
- (c) The Schedule 1 chemical is not diverted or used for other purposes.

29. The facility shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments.

30. The number, intensity, duration, timing and mode of inspections for a particular facility shall be based on the risk to the object and purpose of this Convention posed by the quantities of chemicals produced, the characteristics of the facility and the nature of the activities carried out there. Appropriate guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

31. Not later than 180 days after this Convention enters into force for a State Party, it shall conclude facility agreements with the Organization, based on a model agreement covering detailed inspection procedures for each facility.

32. Each State Party planning to establish such a facility after entry into force of this convention shall conclude a facility agreement with the Organization before the facility begins operation or is used.

## PART VII

### ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI REGIME FOR SCHEDULE 2 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS

#### A. DECLARATIONS

##### *Declarations of aggregate national data*

1. The initial and annual declarations to be provided by each State Party pursuant to Article VI, paragraphs 7 and 8, shall include aggregate national data for the previous calendar year on the quantities produced, processed, consumed, imported and exported of each Schedule 2 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 1 not later than 30 days after this convention enters into force for it; and, starting in the following calendar year,

(b) Annual declarations not later than 90 days after the end of the previous calendar year.

##### *Declarations of plant sites producing, processing or consuming Schedule 2 chemicals*

3. Initial and annual declarations are required for all plant sites that comprise one or more plant(s) which produced, processed or consumed during any of the previous three calendar years or is anticipated to produce, process or consume in the next calendar year more than :

(a) 1kg of a chemical designated "\*" in Schedule 2, part A;

(b) 100 kg of any other chemical listed in Schedule 2, part A; or

(c) 1 tonne of a chemical listed in Schedule 2, part B.

4. Each State Party shall submit :

(a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;

(b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year;

(c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 2 chemical. They are only required, in accordance with guidelines, in cases where the ease of recovery from the mixture of the Schedule 2 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

6. Declarations of a plant site pursuant to paragraph 3 shall include :

- (a) The name of the plant site and the name of the owner, company, or enterprise operating it;
- (b) Its precise location including the address; and
- (c) The number of plants within the plant site which are declared pursuant to Part VIII to this Annex.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3, the following information :

- (a) The name of the plant and the name of the owner, company, or enterprise operating it;
- (b) Its precise location within the plant site including the specific building or structure number, if any;
- (c) Its main activities;
- (d) Whether the plant :
  - (i) Produces, processes, or consumes the declared Schedule 2 chemical(s);
  - (ii) Is dedicated to such activities or multi-purpose; and
  - (iii) Performs other activities with regard to the declared Schedule 2 chemical(s), including a specification of that other activity (e.g. storage); and
- (e) The production capacity of the plant for each declared Schedule 2 chemical.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 2 chemical above the declaration threshold,—

- (a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;
- (b) In the case of the initial declaration: The total amount produced, processed, consumed, imported and exported by the plant site in each of the three previous calendar years;
- (c) In the case of the annual declaration on past activities: The total amount produced, processed, consumed, imported and exported by the plant site in the previous calendar year;

(d) In the case of the annual declaration on anticipated activities: The total amount anticipated to be produced, processed or consumed by the plant site in the following calendar year, including the anticipated time periods for production, processing or consumption; and

(e) The purposes for which the chemical was or will be produced, processed or consumed:—

(i) Processing and consumption on-site with a specification of the product types;

(ii) Sale or transfer within the territory or to any other place under the jurisdiction or control of the State Party, with a specification whether to other industry, trader or other destination and, if possible, of final product types;

(iii) Direct export, with a specification of the States involved; or

(iv) Other, including a specification of these other purposes.

*Declarations on past production of Schedule 2 chemicals for chemical weapons purposes*

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1 January 1946 a Schedule 2 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include :

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address;

(c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, sub-paragraphs (a) to (e); and

(d) For each Schedule 2 chemical produced for chemical weapons purposes ;

(i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and chemical Abstracts Service registry number, if assigned;

(ii) The dates when the chemical was produced and the quantity produced; and

(iii) The location to which the chemical was delivered and the final product produced there, if known.

*Information to States Parties*

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7(a), 7(c), 7(d)(i), 7(d)(iii), 8(a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

**B. VERIFICATION***General*

12. Verification provided for in Article VI, paragraph 4, shall be carried out through on-site inspection at those of the declared plant sites that comprise one or more plants which produced, processed or consumed during any of the previous three calendar years or are anticipated to produce, process or consume in the next calendar year more than—

- (a) 10 kg of a chemical designated "\*" in Schedule 2, part A;
- (b) 1 tonne of any other chemical listed in Schedule 2, part A; or
- (c) 10 tonnes of a chemical listed in Schedule 2, part B.

13. The Programme and budget of the Organization to be adopted by the Conference pursuant to Article VIII, paragraph 2I (a) shall contain, as a separate item, a programme and budget for verification under this Section. In the allocation of resources made available for verification under Article VI, the Technical Secretariat shall, during the first three years after the entry into force of this Convention, give priority to the initial inspections of plant sites declared under Section A. The allocation shall thereafter be reviewed on the basis of the experience gained.

14. The Technical Secretariat shall conduct initial inspections and subsequent inspections in accordance with paragraphs 15 to 22.

*Inspection aims*

15. The general aim of inspections shall be to verify that activities are in accordance with obligations under this Convention and consistent with the information to be provided in declarations. Particular aims of inspections at plant sites declared under Section A shall include verification of—

- (a) The absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex;
- (b) Consistency with declaration of levels of production, processing or consumption of Schedule 2 chemicals; and
- (c) Non-diversion of Schedule 2 chemicals for activities prohibited under this Convention.

*Initial inspections*

16. Each plant site to be inspected pursuant to paragraph 12 shall receive an initial inspection as soon as possible but preferably not later than three years after entry into force of this Convention. Plant sites declared after this period shall receive an initial inspection not later than one year after production processing or consumption is first declared. Selection of plant sites for initial inspections shall be made by the Technical Secretariat in such a way as to preclude the prediction of precisely when the plant site is to be inspected.

17. During the initial inspection, a draft facility agreement for the plant site shall be prepared unless the inspected State Party and the Technical Secretariat agree that it is not needed.

18. With regard to frequency and intensity of subsequent inspections, inspectors shall during the initial inspection assess the risk to the object and purpose of this Convention posed by the relevant chemicals, the characteristics of the plant site and the nature of the activities carried out there, taking into account, *inter alia*, the following criteria:

- (a) The toxicity of the scheduled chemicals and of the end-products produced with it, if any;
- (b) The quantity of the scheduled chemicals typically stored at the inspected site;
- (c) The quantity of feedstock chemicals for the scheduled chemicals typically stored at the inspected site;
- (d) The production capacity of the Schedule 2 plants; and
- (e) The capability and convertibility for initiating production, storage and filling of toxic chemicals at the inspected site.

#### *Inspections*

19. Having received the initial inspection, each plant site to be inspected pursuant to paragraph 12 shall be subject to subsequent inspections.

20. In selecting particular plant sites for inspection and in deciding on the frequency and intensity of inspections, the Technical Secretariat shall give due consideration to the risk to the object and purpose of this Convention posed by the relevant chemical, the characteristics of the plant site and the nature of the activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections.

21. The Technical Secretariat shall choose a particular plant site to be inspected in such a way as to preclude the prediction of exactly when it will be inspected.

22. No plant site shall receive more than two inspections per calendar year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

#### *Inspection procedures*

23. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 24 to 30 below shall apply.

24. A facility agreement for the declared plant site shall be concluded not later than 90 days after completion of the initial inspection between the inspected State Party and the Organization unless the inspected State Party and the Technical Secretariat agree that it is not needed. It shall be based on a model agreement and govern the conduct of inspections at the declared plant site. The agreement shall specify the frequency and intensity of inspections as well as detailed inspection procedures, consistent with paragraphs 25 to 29.

25. The focus of the inspection shall be the declared Schedule 2 plant(s) within the declared plant site. If the inspection team requests access to other parts of the plant site, access to these areas shall be granted in accordance with the obligation to provide clarification pursuant to Part II, paragraph 51, of this Annex and in accordance with the facility agreement, or, in the absence of a facility agreement, in accordance with the rules of managed access as specified in Part X, Section C, of this Annex.

26. Access to records shall be provided, as appropriate, to provide assurance that there has been no diversion of the declared chemical and that production has been consistent with declarations.

27. Sampling and analysis shall be undertaken to check for the absence of undeclared scheduled chemicals.

28. Areas to be inspected may include:

- (a) Areas where feed chemicals (reactants) are delivered or stored;
- (b) Areas where manipulative processes are performed upon the reactants prior to addition to the reaction vessels;
- (c) Feed lines as appropriate from the areas referred to in sub-paragraph (a) or sub-paragraph (b) to the reaction vessels together with any associated valves, flow meters, etc.;
- (d) The external aspect of the reaction vessels and ancillary equipment;
- (e) Lines from the reaction vessels leading to long or short-term storage or to equipment further processing the declared Schedule 2 chemicals;
- (f) Control equipment associated with any of the items under sub-paragraphs (a) to (e);
- (g) Equipment and areas for waste and effluent handling;
- (h) Equipment and areas for disposition of chemicals not up to specification.

29. The period of inspection shall not last more than 96 hours; however, extensions may be agreed between the inspection team and the inspected State Party.

#### *Notification of inspection*

30. A State Party shall be notified by the Technical Secretariat of the inspection not less than 48 hours before the arrival of the inspection team at the plant site to be inspected.

### C. TRANSFERS TO STATE NOT PARTY TO THIS CONVENTION

31. Schedule 2 chemicals shall only be transferred to or received from States Parties. This obligation shall take effect three years after entry into force of this Convention.

32. During this interim three-year period, each State Party shall require and end-use certificate, as specified below, for transfers of Schedule 2 chemicals to States not Party to this Convention. For such transfers, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. *Inter alia*, the State Party shall require from the recipient State a certificate stating, in relation to the transferred chemicals:

- (a) That they will only be used for purposes not prohibited under this Convention;
- (b) That they will not be re-transferred;
- (c) Their types and quantities;
- (d) Their end-use(s); and
- (e) The name(s) and address(es) of the end-user(s).

**PART VIII****ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE  
WITH ARTICLE VI****REGIME FOR SCHEDULE 3 CHEMICALS AND FACILITIES RELATED TO SUCH  
CHEMICALS****A. DECLARATIONS***Declarations of aggregate national data*

1. The initial and annual declarations to be provided by a State Party pursuant to Article VI, paragraphs 7 and 8, shall include aggregate national data for the previous calendar year on the quantities produced, imported and exported of each Schedule 3 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 1 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;

(b) Annual declarations not later than 90 days after the end of the previous calendar year.

*Declarations of plant sites producing Schedule 3 chemicals*

3. Initial and annual declarations are required for all plant sites that comprise one or more plants which produced during the previous calendar year or are anticipated to produce in the next calendar year more than 30 tonnes of a Schedule 3 chemical.

4. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;

(b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year;

(c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 3 chemical. They are only required, in accordance with guidelines, in such cases where the ease of recovery from the mixture of the Schedule 3 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

6. Declarations of a plant site pursuant to paragraph 3 shall include:

(a) The name of the plant site and the name of owner, company, or enterprise operating it;

(b) Its precise location including the address; and

(c) The number of plants within the plant site which are declared pursuant to Part VII of this Annex.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3 the following information:

(a) The name of the plant and the name of the owner, company, or enterprise operating it;

(b) Its precise location within the plant site, including the specific building or structure number, if any;

(c) Its main activities.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 3 chemical above the declaration threshold :

(a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;

(b) The approximate amount of production of the chemical in the previous calendar year, or, in case of declarations on anticipated activities, anticipated for the next calendar year, expressed in the ranges: 30 to 200 tonnes, 200 to 1,000 tonnes, 1,000 to 10,000 tonnes, 10,000 to 100,000 tonnes, and above 100,000 tonnes; and

(c) The purposes for which the chemical was or will be produced.

*Declarations on past production of Schedule 3 chemicals for chemical weapons purposes*

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1 January 1946 a Schedule 3 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include :

(a) The name of the plant site and the name of owner, company, or enterprise operating it;

(b) Its precise location including the address;

(c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, sub-paragraphs (a) to (c); and

(d) For each Schedule 3 chemical produced for chemical weapons purposes :

(i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and Chemical Abstracts Service registry number, if assigned;

(ii) The dates when the chemical was produced and the quantity produced; and

(iii) The location to which the chemical was delivered and the final product produced there, if known.

*Information to States Parties*

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7(a), 7(c), 8(a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

B. VERIFICATION

*General*

12. Verification provided for in paragraph 5 of Article VI shall be carried out through on-site inspections at those declared plant sites which produced during the previous calendar year or are anticipated to produce in the next calendar year in excess of 200 tonnes aggregate of any Schedule 3 chemical above the declaration threshold of 30 tonnes.

13. The programme and budget of the Organization to be adopted by the Conference pursuant to Article VIII, paragraph 21(a), shall contain, as a separate item, a programme and budget for verification under this Section taking into account Part VII, paragraph 13, of this Annex.

14. Under this Section, the Technical Secretariat shall randomly select plant sites for inspection through appropriate mechanisms, such as the use of specially designed computer software, on the basis of the following weighting factors:

(a) Equitable geographical distribution of inspections; and

(b) The information on the declared plant sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site and the nature of the activities carried out there.

15. No plant site shall receive more than two inspections per year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

16. In selecting plant sites for inspection under this Section, the Technical Secretariat shall observe the following limitation for the combined number of inspections to be received by a State Party per calendar year under this Part and Part IX of this Annex: the combined number of inspections shall not exceed three plus 5 per cent. of the total number of plant sites declared by a State Party under both this Part and Part IX of this Annex, or 20 inspections, whichever of these two figures is lower.

17. At plant sites declared under Section A, the general aim of inspections shall be to verify that activities are consistent with the information to be provided in declarations. The particular aim of inspections shall be the verification of the absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex.

*Inspection procedures*

18. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 19 to 25 below shall apply.

19. There shall be no facility agreement, unless requested by the inspected State Party.

20. The focus of the inspections shall be the declared Schedule 3 plant(s) within the declared plant site. If the inspection team, in accordance with Part II, paragraph 51, of this Annex, requests access to other parts of the plant site for clarification of ambiguities, the extent of such access shall be agreed between the inspection team and the inspected State Party.

21. The inspection team may have access to records in situations in which the inspection team and the inspected State Party agree that such access will assist in achieving the objectives of the inspection.

22. Sampling and on-site analysis may be undertaken to check for the absence of undeclared scheduled chemicals. In case of unresolved ambiguities, samples may be analysed in a designated off-site laboratory, subject to the inspected State Party's agreement.

23. Areas to be inspected may include:

(a) Areas where feed chemicals (reactants) are delivered or stored;

(b) Areas where manipulative processes are performed upon the reactants prior to addition to the reaction vessel;

(c) Feed lines as appropriate from the areas referred to in sub-paragraph (a) or sub-paragraph (b) to the reaction vessel together with any associated valves, flow meters, etc.;

(d) The external aspect of the reaction vessels and ancillary equipment;

(e) Lines from the reaction vessels leading to long or short-term storage or to equipment further processing the declared Schedule 3 chemicals;

(f) Control equipment associated with any of the items under sub-paragraphs (a) to (e);

- (g) Equipment and areas for waste and effluent handling;
- (h) Equipment and areas for disposition of chemicals not up to specification.

24. The period of inspection shall not last more than 24 hours; however, extensions may be agreed between the inspection team and the inspected State Party.

*Notification of inspection*

25. A State Party shall be notified by the Technical Secretariat of the inspection not less than 120 hours before the arrival of the inspection team at the plant site to be inspected.

C. TRANSFERS TO STATES NOT PARTY TO THIS CONVENTION

26. When transferring Schedule 3 chemicals to States not Party to this Convention, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. *Inter alia*, the State Party shall require from the recipient State a certificate stating, in relation to the transferred chemicals :

- (a) That they will only be used for purposes not prohibited under this Convention;
- (b) That they will not be re-transferred;
- (c) Their types and quantities;
- (d) Their end-use(s); and
- (e) The name(s) and address(es) of the end-user(s).

27. Five years after entry into force of this Convention, the Conference shall consider the need to establish other measures regarding transfers of Schedule 3 chemicals to States not Party to this Convention.

**PART IX****ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH  
ARTICLE VI****REGIME FOR OTHER CHEMICAL PRODUCTION FACILITIES****A. DECLARATIONS***List of other chemical production facilities*

1. The initial declaration to be provided by each State Party pursuant to Article VI, paragraph 7, shall include a list of all plant sites that:
  - (a) Produced by synthesis during the previous calendar year more than 200 tonnes of unscheduled discrete organic chemicals; or
  - (b) Comprise one or more plants which produced by synthesis during the previous calendar year more than 30 tonnes of an unscheduled discrete organic chemical containing the elements phosphorus, sulfur or fluorine (hereinafter referred to as "PSF-plants" and "PSF-chemical").
2. The list of other chemical production facilities to be submitted pursuant to paragraph 1 shall not include plant sites that exclusively produced explosives or hydrocarbons.
3. Each State Party shall submit its list of other chemical production facilities pursuant to paragraph 1 as part of its initial declaration not later than 30 days after this Convention enters into force for it. Each State Party shall, not later than 90 days after the beginning of each following calendar year, provide annually the information necessary to update the list.
4. The list of other chemical production facilities to be submitted pursuant to paragraph 1 shall include the following information on each plant site:
  - (a) The name of the plant site and the name of the owner, company, or enterprise operating it;
  - (b) The precise location of the plant site including its address;
  - (c) Its main activities; and
  - (d) The approximate number of plants producing the chemicals specified in paragraph 1 in the plant site.
5. With regard to plant sites listed pursuant to paragraph 1(a), the list shall also include information on the approximate aggregate amount of production of the unscheduled discrete organic chemicals in the previous calendar year expressed in the ranges: under 1,000 tonnes, 1,000 to 10,000 tonnes and above 10,000 tonnes.
6. With regard to plant sites listed pursuant to paragraph 1(b), the list shall also specify the number of PSF-plants within the plant site and include information on the approximate aggregate amount of production of PSF-chemicals produced by each PSF-plant in the previous calendar year expressed in the ranges; under 200 tonnes, 200 to 1,000 tonnes, 1,000 to 10,000 tonnes and above 10,000 tonnes.

*Assistance by the Technical Secretariat*

7. If a State Party, for administrative reasons, deems it necessary to ask for assistance in compiling its list of chemical production facilities pursuant to paragraph 1, it may request the Technical Secretariat to provide such assistance. Questions as to the completeness of the list shall then be resolved through consultations between the State Party and the Technical Secretariat.

*Information to States Parties*

8. The lists of other chemical production facilities submitted pursuant to paragraph 1, including the information provided under paragraph 4, shall be transmitted by the Technical Secretariat to States Parties upon request.

**B. VERIFICATION***General*

9. Subject to the provisions of Section C, verification as provided for in Article VI, paragraph 6, shall be carried out through on-site inspection at:

(a) Plant sites listed pursuant to paragraph 1(a); and

(b) Plant sites listed pursuant to paragraph 1(b) that comprise one or more PSF-plants which produced during the previous calendar year more than 200 tonnes of a PSF-chemical.

10. The programme and budget of the Organization to be adopted by the Conference pursuant to Article VII, paragraph 21(a), shall contain, as a separate item, a programme and budget for verification under this Section after its implementation has started.

11. Under this Section, the Technical Secretariat shall randomly select plant sites for inspection through appropriate mechanisms, such as the use of specially designed computer software, on the basis of the following weighting factors:

(a) Equitable geographical distribution of inspections;

(b) The information on the listed plant sites available to the Technical Secretariat, related to the characteristics of the plant site and the activities carried out there; and

(c) Proposals by States Parties on a basis to be agreed upon in accordance with paragraph 25.

12. No plant site shall receive more than two inspections per year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

13. In selecting plant sites for inspection under this Section, the Technical Secretariat shall observe the following limitation for the combined number of inspections to be received by a State Party per calendar year under this Part and Part VIII of this Annex: the combined number of inspections shall not exceed three plus 5 per cent of the total number of plant sites declared by a State Party under both this Part and Part VIII of this Annex, or 20 inspections, whichever of these two figures is lower.

*Inspection aims*

14. At plant sites listed under Section A, the general aim of inspections shall be to verify that activities are consistent with the information to be provided in declarations. The particular aim of inspections shall be the verification of the absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex.

*Inspection procedures*

15. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 16 to 20 below shall apply.

16. There shall be no facility agreement, unless requested by the inspected State Party.

17. The focus of inspection at a plant site selected for inspection shall be the plant(s) producing the chemicals specified in paragraph 1, in particular the PSF-plants listed pursuant to paragraph 1(b). The inspected State Party shall have the right to manage access to these plants in accordance with the rules of managed access as specified in Part X, Section C, of this Annex. If the inspection team, in accordance with Part II, paragraph 51, of this Annex, requests access to other parts of the plant site for clarification of ambiguities, the extent of

such access shall be agreed between the inspection team and the inspected State Party.

18. The inspection team may have access to records in situations in which the inspection team and the inspected State Party agree that such access will assist in achieving the objectives of the inspection.

19. Sampling and on-site analysis may be undertaken to check for the absence of undeclared scheduled chemicals. In cases of unresolved ambiguities, samples may be analysed in a designated off-site laboratory, subject to the inspected State Party's agreement.

20. The period of inspection shall not last more than 24 hours; however, extensions may be agreed between the inspection team and the inspected State Party.

*Notification of inspection*

21. A State Party shall be notified by the Technical Secretariat of the inspection not less than 120 hours before the arrival of the inspection team at the plant site to be inspected.

C. IMPLEMENTATION AND REVIEW OF SECTION B

*Implementation*

22. The implementation of Section B shall start at the beginning of the fourth year after entry into force of this Convention unless the Conference, at its regular session in the third year after entry into force of this Convention, decides otherwise.

23. The Director-General shall, for the regular session of the Conference in the third year after entry into force of this Convention, prepare a report which outlines the experience of the Technical Secretariat in implementing the provisions of Parts VII and VIII of this Annex as well as of Section A of this Part.

24. At its regular session in the third year after entry into force of this Convention, the Conference, on the basis of a report of the Director-General, may also decide on the distribution of resources available for verification under Section B between "PSF-plants" and other chemical production facilities. Otherwise, this distribution shall be left to the expertise of the Technical Secretariat and be added to the weighting factors in paragraph 11.

25. At its regular session in the third year after entry into force of this Convention, the Conference, upon advice of the Executive Council, shall decide on which basis (e. g. regional) proposals by States Parties for inspection should be presented to be taken into account as a weighting factor in the selection process specified in paragraph 11.

*Review*

26. At the first special session of the Conference convened pursuant to Article VIII, paragraph 22, the provisions of this Part of the Verification Annex shall be re-examined in the light of a comprehensive review of the overall verification regime for the chemical industry (Article VI, Parts VII to IX of this Annex) on the basis of the experience gained. The Conference shall then make recommendations so as to improve the effectiveness of the verification regime.

## PART X

## CHALLENGE INSPECTIONS PURSUANT TO ARTICLE IX

## A. DESIGNATION AND SELECTION OF INSPECTORS AND INSPECTION ASSISTANTS

1. Challenge inspections pursuant to Article IX shall only be performed by inspectors and inspection assistants especially designated for this function. In order to designate inspectors and inspection assistants for challenge inspections pursuant to Article IX, the Director-General shall, by selecting inspectors and inspection assistants from among the inspectors and inspection assistants for routine inspection activities, establish a list of proposed inspectors and inspection assistants. It shall comprise a sufficiently large number of inspectors and inspection assistants having the necessary qualification, experience, skill and training, to allow for flexibility in the selection of the inspectors, taking into account their availability, and the need for rotation. Due regard shall be paid also to the importance of selecting inspectors and inspection assistants on as wide a geographical basis as possible. The designation of inspectors and inspection assistants shall follow the procedures provided for under Part II, Section A, of this Annex.

2. The Director-General shall determine the size of the inspection team and select its members taking into account the circumstances of a particular request. The size of the inspection team shall be kept to a minimum necessary for the proper fulfilment of the inspection mandate. No national of the requesting State Party or the inspected State Party shall be a member of the inspection team.

## B. PRE-INSPECTION ACTIVITIES

3. Before submitting the inspection request for a challenge inspection, the State Party may seek confirmation from the Director-General that the Technical Secretariat is in a position to take immediate action on the request. If the Director-General cannot provide such confirmation immediately, he shall do so at the earliest opportunity, in keeping with the order of requests for confirmation. He shall also keep the State Party informed of when it is likely that immediate action can be taken. Should the Director-General reach the conclusion that timely action on requests can no longer be taken, he may ask the Executive Council to take appropriate action to improve the situation in the future.

*Notification*

4. The inspection request for a challenge inspection to be submitted to the Executive Council and the Director-General shall contain at least the following information:

(a) The State Party to be inspected and, if applicable, the Host State;

(b) The point of entry to be used;

(c) The size and type of the inspection site;

(d) The concern regarding possible non-compliance with this Convention including a specification of the relevant provisions of this Convention about which the concern has arisen, and of the nature and circumstances of the possible non-compliance as well as all appropriate information on the basis of which the concern has arisen; and

(e) The name of the observer of the requesting State Party.

The requesting State Party may submit any additional information it deems necessary.

5. The Director-General shall within one hour acknowledge to the requesting State Party receipt of its request.

6. The requesting State Party shall notify the Director-General of the location of the inspection site in due time for the Director-General to be able to provide this information to

the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.

7. The inspection site shall be designated by the requesting State Party as specifically as possible by providing a site diagram related to a reference point with geographic coordinates, specified to the nearest second if possible. If possible, the requesting State Party shall also provide a map with a general indication of the inspection site and a diagram specifying as precisely as possible the requested perimeter of the site to be inspected.

8. The requested perimeter shall:

- (a) Run at least a 10 metre distance outside any buildings or other structures;
- (b) Not cut through existing security enclosures; and
- (c) Run at least a 10 metre distance outside any existing security enclosures that the requesting State Party intends to include within the requested perimeter.

9. If the requested perimeter does not conform with the specifications of paragraph 8, it shall be redrawn by the inspection team so as to conform with that provision.

10. The Director-General shall, not less than 12 hours before the planned arrival of the inspection team at the point of entry, inform the Executive Council about the location of the inspection site as specified in paragraph 7.

11. Contemporaneously with informing the Executive Council according to paragraph 10, the Director-General shall transmit the inspection request to the inspected State Party including the location of the inspection site as specified in paragraph 7. This notification shall also include the information specified in Part II, paragraph 32, of this Annex.

12. Upon arrival of the inspection team at the point of entry, the inspected State Party shall be informed by the inspection team of the inspection mandate.

*Entry into the territory of the inspected State Party or the Host State*

13. The Director-General shall, in accordance with Article IX, paragraphs 13 to 18, dispatch an inspection team as soon as possible after an inspection request has been received. The inspection team shall arrive at the point of entry specified in the request in the minimum time possible, consistent with the provisions of paragraphs 10 and 11.

14. If the requested perimeter is acceptable to the inspected State Party, it shall be designated as the final perimeter as early as possible, but in no case later than 24 hours after the arrival of the inspection team at the point of entry. The inspected State Party shall transport the inspection team to the final perimeter of the inspection site. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in this paragraph for the designation of the final perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.

15. For all declared facilities, the procedures in sub-paragraphs (a) and (b) shall apply. [For the purposes of this Part, "declared facility" means all facilities declared pursuant to Articles III, IV and V. With regard to Article VI, "declared facility" means only facilities declared pursuant to Part VI of this Annex, as well as declared plants specified by declarations pursuant to Part VII, paragraphs 7 and 10 (c), and Part VIII, paragraphs 7 and 10 (c), of this Annex]:

- (a) If the requested perimeter is contained within or conforms with the declared perimeter, the declared perimeter shall be considered the final perimeter. The final perimeter may, however, if agreed by the inspected State Party, be made smaller in order to conform with the perimeter requested by the requesting State Party.

(b) The inspected State Party shall transport the inspection team to the final perimeter as soon as practicable, but in any case shall ensure their arrival at the perimeter not later than 24 hours after the arrival of the inspection team at the point of entry.

*Alternative determination of final perimeter*

16. At the point of entry, if the inspected State Party cannot accept the requested perimeter, it shall propose an alternative perimeter as soon as possible, but in any case not later than 24 hours after the arrival of the inspection team at the point of entry. In case of differences of opinion, the inspected State Party and the inspection team shall engage in negotiations with the aim of reaching agreement on a final perimeter.

17. The alternative perimeter should be designated as specifically as possible in accordance with paragraph 8. It shall include the whole of the requested perimeter and should, as a rule, bear a close relationship to the latter, taking into account natural terrain features and man-made boundaries. It should normally run close to the surrounding security barrier if such a barrier exists. The inspected State Party should seek to establish such a relationship between the perimeters by a combination of at least two of the following means:

(a) An alternative perimeter that does not extend to an area significantly greater than that of the requested perimeter;

(b) An alternative perimeter that is a short, uniform distance from the requested perimeter;

(c) At least part of the requested perimeter is visible from the alternative perimeter.

18. If the alternative perimeter is acceptable to the inspection team, it shall become the final perimeter and the inspection team shall be transported from the point of entry to that perimeter. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in paragraph 16 for proposing an alternative perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.

19. If a final perimeter is not agreed, the perimeter negotiations shall be concluded as early as possible, but in no case shall they continue more than 24 hours after the arrival of the inspection team at the point of entry. If no agreement is reached, the inspected State Party shall transport the inspection team to a location at the alternative perimeter. If the inspected State Party deems it necessary, such transportation may begin up to 12 hours before the expiry of the time period specified in paragraph 16 for proposing an alternative perimeter. Transportation shall, in any case, be completed not later than 36 hours after the arrival of the inspection team at the point of entry.

20. Once at the location, the inspected State Party shall provide the inspection team with prompt access to the alternative perimeter to facilitate negotiations and agreement on the final perimeter and access within the final perimeter.

21. If no agreement is reached within 72 hours after the arrival of the inspection team at the location, the alternative perimeter shall be designated the final perimeter.

*Verification of location*

22. To help establish that the inspection site to which the inspection team has been transported corresponds to the inspection site specified by the requesting State Party, the inspection team shall have the right to use approved location-finding equipment and have such equipment installed according to its directions. The inspection team may verify its location by reference to local landmarks identified from maps. The inspected State Party shall assist the inspection team in this task.

*Securing the site, exit monitoring*

23. Not later than 12 hours after the arrival of the inspection team at the point of entry, the inspected State Party shall begin collecting factual information of all vehicular exit activity from all exit points for all land, air, and water vehicles of the requested perimeter. It shall provide this information to the inspection team upon its arrival at the alternative or final perimeter, whichever occurs first.

24. This obligation may be met by collecting factual information in the form of traffic logs, photographs, video recordings, or data from chemical evidence equipment provided by the inspection team to monitor such exit activity. Alternatively, the inspected State Party may also meet this obligation by allowing one or more members of the inspection team independently to maintain traffic logs, take photographs, make video recordings of exit traffic, or use chemical evidence equipment, and conduct other activities as may be agreed between the inspected State Party and the inspection team.

25. Upon the inspection team's arrival at the alternative perimeter or final perimeter, whichever occurs first, securing the site, which means exit monitoring procedures by the inspection team, shall begin.

26. Such procedures shall include: the identification of vehicular exits, the making of traffic logs, the taking of photographs, and the making of video recordings by the inspection team of exits and exit traffic. The inspection team has the right to go, under escort, to any other part of the perimeter to check that there is no other exit activity.

27. Additional procedures for exit monitoring activities as agreed upon by the inspection team and the inspected State Party may include, *inter alia*:

- (a) Use of sensors;
- (b) Random selective access;
- (c) Sample analysis.

28. All activities for securing the site and exit monitoring shall take place within a band around the outside of the perimeter, not exceeding 50 metres in width, measured outward.

29. The inspection team has the right to inspect on a managed access basis vehicular traffic exiting the site. The inspected State Party shall make every reasonable effort to demonstrate to the inspection team that any vehicle, subject to inspection, to which the inspection team is not granted full access, is not being used for purposes related to the possible non-compliance concerns raised in the inspection request.

30. Personnel and vehicles entering and personnel and personal passenger vehicles exiting the site are not subject to inspection.

31. The application of the above procedure may continue for the duration of the inspection, but may not unreasonably hamper or delay the normal operation of the facility.

*Pre-inspection briefing and inspection plan*

32. To facilitate development of an inspection plan, the inspected State Party shall provide a safety and logistical briefing to the inspection team prior to access.

33. The pre-inspection briefing shall be held in accordance with Part II, paragraph 37, of this Annex. In the course of the pre-inspection briefing, the inspected State Party may indicate to the inspection team the equipment, documentation, or areas it considers sensitive and not related to the purpose of the challenge inspection. In addition, personnel responsible for the site shall brief the inspection team on the physical layout and other relevant characteristics of the site. The inspection team shall be provided with a map or sketch drawn to scale showing all structures and significant geographic features at the site. The inspection team shall also be briefed on the availability of facility personnel and records.

34. After the pre-inspection briefing, the inspection team shall prepare, on the basis of the information available and appropriate to it, an initial inspection plan which specifies the activities to be carried out by the inspection team, including the specific areas of the site to which access is desired. The inspection plan shall also specify whether the inspection team will be divided into subgroups. The inspection plan shall be made available to the representatives of the inspected State Party and the inspection site. Its implementation shall be consistent with the provisions of Section C, including those related to access and activities.

#### *Perimeter activities*

35. Upon the inspection team's arrival at the final or alternative perimeter, whichever occurs first, the team shall have the right to commence immediately perimeter activities in accordance with the procedures set forth under this Section, and to continue these activities until the completion of the challenge inspection.

36. In conducting the perimeter activities, the inspection team shall have the right to:

- (a) Use monitoring instruments in accordance with Part II, paragraphs 27 to 30, of this Annex;
- (b) Take wipes, air, soil or effluent samples; and
- (c) Conduct any additional activities which may be agreed between the inspection team and inspected State Party.

37. The perimeter activities of the inspection team may be conducted within a band around the outside of the perimeter up to 50 meters in width measured outward from the perimeter. If the inspected State Party agrees, the inspection team may also have access to any building or structure within the perimeter band. All directional monitoring shall be oriented inward. For declared facilities, at the discretion of the inspected State Party, the band could run inside, outside, or on both sides of the declared perimeter.

### C. CONDUCT OF INSPECTIONS

#### *General rules*

38. The inspected State Party shall provide access within the requested perimeter as well as, if different, the final perimeter. The extent and nature of access to a particular place or places within these perimeters shall be negotiated between the inspection team and the inspected State Party on a managed access basis.

39. The inspected State Party shall provide access within the requested perimeter as soon as possible, but in any case not later than 108 hours after the arrival of the inspection team at the point of entry in order to clarify the concern regarding possible non-compliance with this Convention raised in the inspection request.

40. Upon the request of the inspection team, in inspected State Party may provide aerial access to the inspection site.

41. In meeting the requirement to provide access as specified in paragraph 38, the inspected State Party shall be under the obligation to allow the greatest degree of access taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures. The inspected State Party has the right under managed access to take such measures as are necessary to protect national security. The provisions in this paragraph may not be invoked by the inspected State Party to conceal evasion of its obligations not to engage in activities prohibited under this Convention.

42. If the inspected State Party provides less than full access to places, activities, or information, it shall be under the obligation to make every reasonable effort to provide alternative means to clarify the possible non-compliance concern that generated the challenge inspection.

43. Upon arrival at the final perimeter of facilities declared pursuant to Articles IV, V and VI, access shall be granted following the pre-inspection briefing and discussion of the inspection plan which shall be limited to the minimum necessary and in any event shall not exceed three hours. For facilities declared pursuant to Article III, paragraph 1 (d), negotiations shall be conducted and managed access commenced not later than 12 hours after arrival at the final perimeter.

44. In carrying out the challenge inspection in accordance with the inspection request, the inspection team shall use only those methods necessary to provide sufficient relevant facts to clarify the concern about possible non-compliance with the provisions of this Convention, and shall refrain from activities not relevant thereto. It shall collect and document such facts as are related to the possible non-compliance with this Convention by the inspected State Party, but shall neither seek nor document information which is clearly not related thereto, unless the inspected State Party expressly requests it to do so. Any material collected and subsequently found not to be relevant shall not be retained.

45. The inspection team shall be guided by the principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its missing. Wherever possible, it shall begin with the least intrusive procedures it deems acceptable and proceed to more intrusive procedures only as it deems necessary.

#### *Managed access*

46. The inspection team shall take into consideration suggested modifications of the inspection plan and proposals which may be made by the inspected State Party, at whatever stage of the inspection including the pre-inspection briefing, to ensure that sensitive equipment, information or areas, not related to chemical weapons, are protected.

47. The inspected State Party shall designate the perimeter entry/exit points to be used for access. The inspection team and the inspected State Party shall negotiate: the extent of access to any particular place or places within the final and requested perimeters as provided in paragraph 48; the particular inspection activities, including sampling, to be conducted by the inspection team; the performance of particular activities by the inspected State Party; and the provision of particular information by the inspected State Party.

48. In conformity with the relevant provisions in the Confidentiality Annex the inspected State Party shall have the right to take measures to protect sensitive installations and prevent disclosure of confidential information and data not related to chemical weapons. Such measures may include, *inter alia*:

- (a) Removal of sensitive papers from office spaces;
- (b) Shrouding of sensitive displays, stores, and equipment;
- (c) Shrouding of sensitive pieces of equipment, such as computer or electronic systems;
- (d) Logging off of computer systems and turning off of data indicating devices;
- (e) Restriction of sample analysis to presence or absence of chemicals listed in Schedules 1, 2 and 3 or appropriate degradation products;
- (f) Using random selective access techniques whereby the inspectors are requested to select a given percentage or number of buildings of their choice to inspect; the same principle can apply to the interior and content of sensitive buildings;
- (g) In exceptional cases, giving only individual inspectors access to certain parts of the inspection site.

49. The inspected State Party shall make every reasonable effort to demonstrate to the inspection team that any object, building, structure, container or vehicle to which the inspection team has not had full access, or which has been protected in accordance with paragraph 48, is not used for purposes related to the possible non-compliance concerns raised in the inspection request.

50. This may be accomplished by means of, *inter alia*, the partial removal of a shroud or environmental protection cover, at the discretion of the inspected State Party, by means of a visual inspection of the interior of an enclosed space from its entrance, or by other methods.

51. In the case of facilities declared pursuant to Articles IV, V and VI, the following shall apply:

(a) For facilities with facility agreements, access and activities within the final perimeter shall be unimpeded within the boundaries established by the agreements;

(b) For facilities without facility agreements, negotiation of access and activities shall be governed by the applicable general inspection guidelines established under this Convention;

(c) Access beyond that granted for inspections under Articles IV, V and VI shall be managed in accordance with procedures of this section.

52. In the case of facilities declared pursuant to Article III, paragraph 1 (d), the following shall apply: if the inspected State Party, using procedures of paragraphs 47 and 48, has not granted full access to areas or structures not related to chemical weapons, it shall make every reasonable effort to demonstrate to the inspection team that such areas or structures are not used for purposes related to the possible non-compliance concerns raised in the inspection request.

#### *Observer*

53. In accordance with the provisions of Article IX, paragraph 12, on the participation of an observer in the challenge inspection, the requesting State Party shall liaise with the Technical Secretariat to coordinate the arrival of the observer at the same point of entry as the inspection team within a reasonable period of the inspection team's arrival.

54. The observer shall have the right throughout the period of inspection to be in communication with the embassy of the requesting State Party or in the Host State or, in the case of absence of an embassy, with the requesting State Party itself. The inspected State Party shall provide means of communication to the observer.

55. The observer shall have the right to arrive at the alternative or final perimeter of the inspection site, wherever the inspection team arrives first, and to have access to the inspection site as granted by the inspected State Party. The observer shall have the right to make recommendations to the inspection team, which the team shall take into account to the extent it deems appropriate. Throughout the inspection, the inspection team shall keep the observer informed about the conduct of the inspection and the findings.

56. Throughout the in-country period, the inspected State Party shall provide or arrange for the amenities necessary for the observer such as communication means, interpretation services, transportation, working space, lodging, meals and medical care. All the costs in connection with the stay of the observer on the territory of the inspected State Party or the Host State shall be borne by the requesting State Party.

#### *Duration of inspection*

57. The period of inspection shall not exceed 84 hours, unless extended by agreement with the inspected State Party.

### D. POST-INSPECTION ACTIVITIES

#### *Departure*

58. Upon completion of the post-inspection procedures at the inspection site, the inspection team and the observer of the requesting State Party shall proceed promptly to a point of entry and shall then leave the territory of the inspected State Party in the minimum time possible.

*Reports*

59. The inspection report shall summarize in a general way the activities conducted by the inspection team and the factual findings of the inspection team, particularly with regard to the concerns regarding possible non-compliance with this Convention cited in the request for the challenge inspection, and shall be limited to information directly related to this Convention. It shall also include an assessment by the inspection team of the degree and nature of access and cooperation granted to the inspectors and the extent to which this enabled them to fulfil the inspection mandate. Detailed information relating to the concerns regarding possible non-compliance with this Convention cited in the request for the challenge inspection shall be submitted as an Appendix to the final report and be retained within the Technical Secretariat under appropriate safeguards to protect sensitive information.

60. The inspection team shall, not later than 72 hours after its return to its primary work location, submit a preliminary inspection report, having taken into account, *inter alia*, paragraph 17 of the Confidentiality Annex, to the Director-General. The Director-General shall promptly transmit the preliminary inspection report to the requesting State Party, the inspected State Party and to the Executive Council.

61. A draft final inspection report shall be made available to the inspected State Party not later than 20 days after the completion of the challenge inspection. The inspected State Party has the right to identify any information and data not related to chemical weapons which should, in its view, due to its confidential character, not be circulated outside the Technical Secretariat. The Technical Secretariat shall consider proposals for changes to the draft final inspection report made by the inspected State Party and, using its own discretion, wherever possible, adopt them. The final report shall then be submitted not later than 30 days after the completion of the challenge inspection to the Director-General for further distribution and consideration in accordance with Article IX, paragraphs 21 to 25.

## PART XI

## INVESTIGATIONS IN CASES OF ALLEGED USE OF CHEMICAL WEAPONS

## A. GENERAL

1. Investigations of alleged use of chemical weapons, or of alleged use of riot control agents as a method of warfare, initiated pursuant to Article IX or X, shall be conducted in accordance with this Annex and detailed procedures to be established by the Director-General.

2. The following additional provisions address specific procedures required in cases of alleged use of chemical weapons.

## B. PRE-INSPECTION ACTIVITIES

*Request for an investigation*

3. The request for an investigation of an alleged use of chemical weapons to be submitted to the Director-General, to the extent possible, should include the following information:

- (a) The State Party on whose territory use of chemical weapons is alleged to have taken place;
- (b) The point of entry or other suggested safe routes of access;
- (c) Location and characteristics of the areas where chemical weapons are alleged to have been used;
- (d) When chemical weapons are alleged to have been used;
- (e) Types of chemical weapons believed to have been used;
- (f) Extent of alleged use;
- (g) Characteristics of the possible toxic chemicals;
- (h) Effects on humans, animals and vegetation;
- (i) Request for specific assistance, if applicable.

4. The State Party which has requested an investigation may submit at any time any additional information it deems necessary.

*Notification*

5. The Director-General shall immediately acknowledge receipt to the requesting State Party of its request and inform the Executive Council and all States Parties.

6. If applicable, the Director-General shall notify the State Party on whose territory an investigation has been requested. The Director-General shall also notify other States Parties if access to their territories might be required during the investigation.

*Assignment of inspection team*

7. The Director-General shall prepare a list of qualified experts whose particular field of expertise could be required in an investigation of alleged use of chemical weapons and constantly keep this list updated. This list shall be communicated, in writing, to each State Party not later than 30 days after entry into force of this Convention and after each change to the list. Any qualified expert included in this list shall be regarded as designated unless a State Party, not later than 30 days after its receipt of the list, declares its non-acceptance in writing.

8. The Director-General shall select the leader and members of an inspection team from the inspectors and inspection assistants already designated for challenge inspections taking into account the circumstances and specific nature of a particular request. In addition, members of the inspection team may be selected from the list of qualified experts, when, in

the view of the Director-General, expertise not available among inspectors already designated is required for the proper conduct of a particular investigation.

9. When briefing the inspection team, the Director-General shall include any additional information provided by the requesting State Party, or any other sources, to ensure that the inspection can be carried out in the most effective and expedient manner.

#### *Despatch of inspection team*

10. Immediately upon the receipt of a request for an investigation of alleged use of chemical weapons the Director-General shall, through contacts with the relevant States Parties, request and confirm arrangements for the safe reception of the team.

11. The Director-General shall dispatch the team at the earliest opportunity, taking into account the safety of the team.

12. If the inspection team has not been dispatched within 24 hours from the receipt of the request, the Director-General shall inform the Executive Council and the States Parties concerned about the reasons for the delay.

#### *Briefings*

13. The inspection team shall have the right to be briefed by representatives of the inspected State Party upon arrival and at any time during the inspection.

14. Before the commencement of the inspection the inspection team shall prepare an inspection plan to serve, *inter alia*, as a basis for logistic and safety arrangements. The inspection plan shall be updated as need arises.

### C. CONDUCT OF INSPECTIONS

#### *Access*

15. The inspection team shall have the right of access to any and all areas which could be affected by the alleged use of chemical weapons. It shall also have the right of access to hospitals, refugee camps and other locations it deems relevant to the effective investigation of the alleged use of chemical weapons. For such access, the inspection team shall consult with the inspected State Party.

#### *Sampling*

16. The inspection team shall have the right to collect samples of types, and in quantities it considers necessary. If the inspection team deems it necessary, and if so requested by it, the inspected State Party shall assist in the collection of samples under the supervision of inspectors or inspection assistants. The inspected State Party shall also permit and cooperate in the collection of appropriate control samples from areas neighbouring the site of the alleged use and from other areas as requested by the inspection team.

17. Samples of importance in the investigation of alleged use include toxic chemicals, munitions and devices, remnants of munitions and devices, environmental samples (air, soil, vegetation, water, snow, etc.) and biomedical samples from human or animal sources (blood, urine, excreta, tissue, etc.).

18. If duplicate samples cannot be taken and the analysis is performed at off-site laboratories, any remaining sample shall, if so requested, be returned to the inspected State Party after the completion of the analysis.

#### *Extension of inspection site*

19. If the inspection team during an inspection deems it necessary to extend the investigation into a neighbouring State Party, the Director-General shall notify that State Party about the need for access to its territory and request and confirm arrangements for the safe reception of the team.

*Extension of inspection duration*

20. If the inspection team deems that safe access to a specific area relevant to the investigation is not possible, the requesting State Party shall be informed immediately. If necessary, the period of inspection shall be extended until safe access can be provided and the inspection team will have concluded its mission.

*Interviews*

21. The inspection team shall have the right to interview and examine persons who may have been affected by the alleged use of chemical weapons. It shall also have the right to interview eye-witnesses of the alleged use of chemical weapons and medical personnel, and other persons who have treated or have come into contact with persons who may have been affected by the alleged use of chemical weapons. The inspection team shall have access to medical histories, if available, and be permitted to participate in autopsies, as appropriate, of persons who may have been affected by the alleged use of chemical weapons.

**D. REPORTS***Procedures*

22. The inspection team shall, not later than 24 hours after its arrival on the territory of the inspected State Party, send a situation report to the Director-General. It shall further throughout the investigation send progress reports as necessary.

23. The inspection team shall, not later than 72 hours after its return to its primary work location, submit a preliminary report to the Director-General. The final report shall be submitted to the Director-General not later than 30 days after its return to its primary work location. The Director-General shall promptly transmit the preliminary and final reports to the Executive Council and to all States Parties.

*Contents*

24. The situation report shall indicate any urgent need for assistance and any other relevant information. The progress reports shall indicate any further need for assistance that might be identified during the course of the investigation.

25. The final report shall summarize the factual findings of the inspection, particularly with regard to the alleged use cited in the request. In addition, a report of an investigation of an alleged use shall include a description of the investigation process, tracing its various stages, with special reference to:

(a) The locations and time of sampling and on-site analysis; and

(b) Supporting evidence, such as the records of interviews, the results of medical examinations and scientific analysis, and the documents examined by the inspection team.

26. If the inspection team collects through, *inter alia*, identification of any impurities or other substances during laboratory analysis of samples taken, any information in the course of its investigation that might serve to identify the origin of any chemical weapons used, that information shall be included in the report.

**E. STATES NOT PARTY TO THIS CONVENTION**

27. In the case of alleged use of chemical weapons involving a State not Party to this Convention or in territory not controlled by a State Party, the Organization shall closely cooperate with the Secretary-General of the United Nations. If so requested, the Organization shall put its resources at the disposal of the Secretary-General of the United Nations.

**ANNEX ON THE PROTECTION OF CONFIDENTIAL INFORMATION  
("CONFIDENTIALITY ANNEX")**

**A. GENERAL PRINCIPLES FOR THE HANDLING OF CONFIDENTIAL INFORMATION**

1. The obligation to protect confidential information shall pertain to the verification of both civil and military activities and facilities. Pursuant to the general obligations set forth in Article VIII, the Organization shall:

- (a) Require only the minimum amount of information and data necessary for the timely and efficient carrying out of its responsibilities under this Convention;
- (b) Take the necessary measures to ensure that inspectors and other staff members of the Technical Secretariat meet the highest standards of efficiency, competence, and integrity;
- (c) Develop agreements and regulations to implement the provisions of this Convention and shall specify as precisely as possible the information to which the Organization shall be given access by a State Party.

2. The Director-General shall have the primary responsibility for ensuring the protection of confidential information. The Director-General shall establish a stringent regime governing the handling of confidential information by the Technical Secretariat, and in doing so, shall observe the following guidelines:

- (a) Information shall be considered confidential if:
  - (i) It is so designated by the State Party from which the information was obtained and to which the information refers; or
  - (ii) In the judgment of the Director-General, its unauthorized disclosure could reasonably be expected to cause damage to the State Party to which it refers or to the mechanisms for implementation of this Convention;
- (b) All data and documents obtained by the Technical Secretariat shall be evaluated by the Appropriate unit of the Technical Secretariat in order to establish whether they contain confidential information. Data required by States Parties to be assured of the continued compliance with this Convention by other States Parties shall be routinely provided to them. Such data shall encompass:
  - (i) The initial and annual reports and declarations provided by States Parties under Articles III, IV, V and VI, in accordance with the provisions set forth in the verification Annex;
  - (ii) General reports on the results and effectiveness of verification activities; and
  - (iii) Information to be supplied to all States Parties in accordance with the provisions of this Convention;
- (c) No information obtained by the Organization in connection with the implementation of this Convention shall be published or otherwise released, except, as follows:
  - (i) General information on the implementation of this Convention may be compiled and released publicly in accordance with the decisions of the Conference or the Executive Council;
  - (ii) Any information may be released with the express consent of the State Party to which the information refers;
  - (iii) Information classified as confidential shall be released by the Organization only through procedures which ensure that the release of information only occurs in strict conformity with the needs of this Convention. Such procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i);

(d) The level of sensitivity of confidential data or documents shall be established, based on criteria to be applied uniformly in order to ensure their appropriate handling and protection. For this purpose, a classification system shall be introduced, which by taking account of relevant work undertaken in the preparation of this Convention shall provide for clear criteria ensuring the inclusion of information into appropriate categories of confidentiality and the justified durability of the confidential nature of information. While providing for the necessary flexibility in its implementation the classification system shall protect the rights of States Parties providing confidential information. A classification system shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i);

(e) Confidential information shall be stored securely at the premises of the Organization. Some data or documents may also be stored with the National Authority of a State Party. Sensitive information, including, *inter alia*, photographs, plants and other documents required only for the inspection of a specific facility may be kept under lock and key at this facility;

(f) To the greatest extent consistent with the effective implementation of the verification provisions of this Convention, information shall be handled and stored by the Technical Secretariat in a form that precludes direct identification of the facility to which it pertains;

(g) The amount of confidential information removed from a facility shall be kept to the minimum necessary for the timely and effective implementation of the verification provisions of this Convention; and

(h) Access to confidential information shall be regulated in accordance with its classification. The dissemination of confidential information within the Organization shall be strictly on a need-to-know basis.

3. The Director-General shall report annually to the Conference on the implementation of the regime governing the handling of confidential information by the Technical Secretariat.

4. Each State Party shall treat information which it receives from the Organization in accordance with the level of confidentiality established for that information. Upon request, a State Party shall provide details on the handling of information provided to it by the Organization.

#### B. EMPLOYMENT AND CONDUCT OF PERSONNEL IN THE TECHNICAL SECRETARIAT

5. Conditions of staff employment shall be such as to ensure that access to and handling of confidential information shall be in conformity with the procedures established by the Director-General in accordance with Section A.

6. Each position in the Technical Secretariat shall be governed by a formal position description that specifies the scope of access to confidential information, if any, needed in that position.

7. The Director-General, the inspectors and the other members of the Staff shall not disclose even after termination of their functions to any unauthorized persons any confidential information coming to their knowledge in the performance of their official duties. They shall not communicate to any State, organization or person outside the Technical Secretariat any information to which they have access in connection with their activities in relation to any State Party.

8. In the discharge of their functions inspectors shall only request the information and data which are necessary to fulfil their mandate. They shall not make any records of information collected incidentally and not related to verification of compliance with this Convention.

9. The staff shall enter into individual secrecy agreements with the Technical Secretariat covering their period of employment and a period of five years after it is terminated.

10. In order to avoid improper disclosures, inspectors and staff members shall be appropriately advised and reminded about security considerations and of the possible penalties that they would incur in the event of improper disclosure.

11. Not less than 30 days before an employee is given clearance for access to confidential information that refers to activities on the territory or in any other place under the jurisdiction or control of a State Party, the State Party concerned shall be notified of the proposed clearance. For inspectors the notification of a proposed designation shall fulfil this requirement.

12. In evaluating the performance of inspectors and any other employees of the Technical Secretariat, specific attention shall be given to the employee's record regarding protection of confidential information.

#### C. MEASURES TO PROTECT SENSITIVE INSTALLATIONS AND PREVENT DISCLOSURE OF CONFIDENTIAL DATA IN THE COURSE OF ON-SITE VERIFICATION ACTIVITIES

13. States Parties may take such measures as they deem necessary to protect confidentiality, provided that they fulfil their obligations to demonstrate compliance in accordance with the relevant Articles and the Verification Annex. When receiving an inspection, the State Party may indicate to the inspection team the equipment, documentation or areas that it considers sensitive and not related to the purpose of the inspection.

14. Inspection teams shall be guided by the principle of conducting on-site inspections in the least intrusive manner possible consistent with the effective and timely accomplishment of their mission. They shall take into consideration proposal which may be made by the State Party receiving the inspection, at whatever stage of the inspection, to ensure that sensitive equipment or information, not related to chemical weapons, is protected.

15. Inspection teams shall strictly abide by the provisions set forth in the relevant Articles and Annexes governing the conduct of inspections. They shall fully respect the procedures designed to protect sensitive installations and to prevent the disclosure of confidential data.

16. In the elaboration of arrangements and facility agreements, due regard shall be paid to the requirement of protecting confidential information. Agreements on inspection procedures for individual facilities shall also include specific and detailed arrangements with regard to the determination of those areas of the facility to which inspectors are granted access the storage of confidential information on-site, the scope of the inspection effort in agreed areas, the taking of samples and their analysis, the access to records and the use of instruments and continuous monitoring equipment.

17. The report to be prepared after each inspection shall only contain facts relevant to compliance with this Convention. The report shall be handled in accordance with the regulations established by the Organization governing the handling of confidential information, if necessary, the information contained in the report shall be processed into less sensitive forms before it is transmitted outside the Technical Secretariat and the inspected State Party.

#### D. PROCEDURES IN CASE OF BREACHES OR ALLEGED BREACHES OF CONFIDENTIALITY

18. The Director-General shall establish necessary procedures to be followed in case of breaches or alleged breaches of confidentiality, taking into account recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21(i).

19. The Director-General shall oversee the implementation of individual secrecy agreements. The Director-General shall promptly initiate an investigation if, in his judgment, there is sufficient indication that obligations concerning the protection of confidential

information have been violated. The Director-General shall also promptly initiate an investigation if an allegation concerning on breach of confidentiality is made by a State Party.

20. The Director-General shall impose appropriate punitive and disciplinary measures on staff members who have violated their obligations to protect confidential information. In cases of serious breaches, the immunity from jurisdiction may be waived by the Director-General.

21. States Parties shall, to the extent possible, cooperate and support the Director-General in investigating any breach or alleged breach of confidentiality and taking appropriate action in case a breach has been established.

22. The Organization shall not be held liable for any breach of confidentiality committed by members of the Technical Secretariat.

23. For breaches involving both a State Party and the Organization, a "Commission for the settlement of disputes related to confidentiality", set up as a subsidiary organ of the Conference, shall consider the case. This Commission shall be appointed by the Conference. Rules governing its composition and operating procedures shall be adopted by the Conference at its first session.

## THE BORDER SECURITY FORCE (AMENDMENT) ACT, 2000

N O. 35 OF 2000

[1st September, 2000.]

An Act further to amend the Border Security Force Act, 1968.

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

47 of 1968.

1. This Act may be called the Border Security Force (Amendment) Act, 2000.
2. In the Border Security Force Act, 1968, after section 121, the following section shall be inserted, namely:—

“121A. When any person subject to this Act is sentenced by a Security Force Court to a term of imprisonment, not being an imprisonment in default of payment of fine, the period spent by him in civil or Force custody during investigation, inquiry or trial of the same case, and before the date of order of such sentence, shall be set-off against the term of imprisonment imposed upon him, and the liability of such person to undergo imprisonment on such order of sentence shall be restricted to the remainder, if any, of the term of imprisonment imposed upon him.”

Short title.

Insertion of  
new section  
121A.

Period of  
custody  
undergone by  
a person to be  
set-off against  
the imprison-  
ment.

THE CABLE TELEVISION NETWORKS (REGULATION)  
AMENDMENT ACT, 2000

No. 36 OF 2000

[1st September, 2000.]

An Act further to amend the Cable Television Networks (Regulation) Act, 1995.

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

1. This Act may be called the Cable Television Networks (Regulation) Amendment Act, 2000. Short title.
2. In the Cable Television Networks (Regulation) Act, 1995 (hereinafter referred to as the principal Act), in section 2, clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:— Amendment of section 2.
- (a) “authorised officer” means, within his local limits of jurisdiction,—  
(i) a District Magistrate, or  
(ii) a Sub-divisional Magistrate, or  
(iii) a Commissioner of Police,
- and includes any other officer notified in the Official Gazette, by the Central Government or the State Government, to be an authorised officer for such local limits of jurisdiction as may be determined by that Government;’.
3. In section 5 of the principal Act, the proviso shall be omitted. Amendment of section 5.
4. In section 6 of the principal Act, the proviso shall be omitted. Amendment of section 6.

Substitution of new section for section 8.

Compulsory transmission of Doordarshan channels.

Amendment of section 11.

Amendment of section 18.

Amendment of section 19.

Amendment of section 20.

**5. For section 8 of the principal Act, the following section shall be substituted, namely:—**

“**(1) Every cable operator shall, from the commencement of the Cable Television Networks (Regulation) Amendment Act, 2000, re-transmit at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band, in satellite mode on frequencies other than those carrying terrestrial frequencies.**

**(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.**

**(3) The Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 may, by notification in the Official Gazette, specify the number and name of every Doordarshan channel to be re-transmitted by cable operators in their cable service and the manner of reception and re-transmission of such channels.”.**

25 of 1990.

**6. In section 11 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—**

“(1) If any authorised officer has reason to believe that the provisions of section 3, 5, 6 or 8 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.”.

**7. In section 18 of the principal Act, for the portion beginning with the words “by such officer” and ending with the words “specify in this behalf”, the words “by any authorised officer” shall be substituted.**

**8. In section 19 of the principal Act,—**

**(i) for the portion beginning with the words “an officer, not below the rank of” and ending with the words “by the State Government in this behalf”, the words “any authorised officer” shall be substituted;**

**(ii) for the words “any particular programme if it is”, the words and figures “any programme or channel if, it is not in conformity with the prescribed programme code referred to in section 5 and advertisement code referred to in section 6 or if it is” shall be substituted.**

**9. Section 20 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-sections shall be inserted, namely:—**

**“(2) Where the Central Government thinks it necessary or expedient so to do in the interest of the—**

**(i) sovereignty or integrity of India; or**

**(ii) security of India; or**

**(iii) friendly relations of India with any foreign State; or**

**(iv) public order, decency or morality,**

**it may, by order, regulate or prohibit the transmission or re-transmission of any channel or programme.**

**(3) Where the Central Government considers that any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 or the prescribed advertisement code referred to in section 6, it may by order, regulate or prohibit the transmission or re-transmission of such programme.”.**

# THE SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT-DESIGN ACT, 2000

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**THE SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT-DESIGN  
ACT, 2000**

**No. 37 OF 2000**

**[4th September, 2000.]**

**An Act to provide for the protection of semiconductor integrated circuits layout-designs and for matters connected therewith or incidental thereto.**

**WHEREAS the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations done at Marrakesh on the 15th day of April, 1994 provides for establishment of the World Trade Organisation;**

**AND WHEREAS the Agreement on Trade Related Aspects of Intellectual Property Rights is part of the said Final Act;**

**AND WHEREAS the Government of India, having ratified the said Final Act, should, *inter alia*, make provisions for giving effect to section 6 in Part II of the Agreement on Trade Related Aspects of Intellectual Property Rights relating to Layout-Design (Topographies) of Integrated Circuits.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

## CHAPTER I

## PRELIMINARY.

**1. (1)** This Act may be called the Semiconductor Integrated Circuits Layout-Design Act, 2000.

(2) It extends to the whole of India.

(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 provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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

Short title,  
extent and  
commencement.

Definitions.

(a) "Appellate Board" means the Appellate Board established under section 32;

(b) "assignment" means an assignment in writing by act of the parties concerned;

(c) "Bench" means a Bench of the Appellate Board;

(d) "Chairperson" means the Chairperson of the Appellate Board;

(e) "commercial exploitation", in relation to Semiconductor Integrated Circuits Layout-Design, means to sell, lease, offer or exhibit for sale or otherwise distribute such semiconductor integrated circuit for any commercial purpose;

(f) "convention country" means a country notified as such under section 93;

(g) "Judicial Member" means a Member of the Appellate Board appointed as such under this Act, and includes the Chairperson or such Vice-Chairperson who possesses any of the qualifications specified in sub-section (3) of section 34;

(h) "layout-design" means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit;

(i) "Member" means a Judicial Member or a Technical Member of the Appellate Board and includes the Chairperson and the Vice-Chairperson;

(j) "notify" means to notify in the Semiconductor Integrated Circuit Journal published by the Registrar;

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

(l) "register" means the Register of Layout-Designs referred to in section 6;

(m) "registered" (with its grammatical variations) means registered under this Act;

(n) "registered layout-design" means a layout-design which is actually on the register;

(o) "registered proprietor", in relation to a layout-design, means the person for the time being entered in the register as proprietor of the layout-design;

(p) "registered user" means a person who is for the time being registered as such under section 25;

(q) "Registrar" means the Registrar of Semiconductor Integrated Circuits Layout-Design referred to in section 3;

(r) "semiconductor integrated circuit" means a product having transistors and other circuitry elements which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function;

(s) "Technical Member" means a Member of the Appellate Board who is not a Judicial Member and includes the Chairperson or such Vice-Chairperson who possesses any of the qualifications specified in sub-section (4) of section 34;

(t) "transmission" means transmission by operation of law, devolution on the personal representation of a deceased person or any other mode of transfer not being assignment;

(u) "Vice-Chairperson" means the Vice-Chairperson of the Appellate Board;

(v) any reference to the Semiconductor Integrated Circuits Layout-Design Registry shall be construed as including a reference to any office of the Semiconductor Integrated Circuits Layout-Design Registry.

## CHAPTER II

### THE REGISTER AND CONDITIONS OF REGISTRATION

**Registrar of Semiconductor Integrated Circuits Layout-Design.**

3. (1) The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Registrar of Semiconductor Integrated Circuits Layout-Design for the purposes of this Act.

(2) The Central Government may appoint such other officers with such designation as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar, such functions of the Registrar under this Act as he may from time to time authorise them to discharge.

**Power of Registrar to transfer pending matters.**

4. Without prejudice to the generality of the provisions of sub-section (2) of section 3, the Registrar may, by order in writing and for reasons to be recorded therein, withdraw any matter pending before an officer appointed under the said sub-section (2) and deal with such matter himself either *de novo* or from the stage it was so withdrawn or transferred the same to another officer so appointed who may subject to the special direction in the order of transfer deal with the matter either *de novo* or from the stage it was so transferred.

**Registry.**

5. (1) For the purposes of this Act, there shall be established a Registry which shall be known as the Semiconductor Integrated Circuits Layout-Design Registry.

(2) The head office of the Semiconductor Integrated Circuits Layout-Design Registry shall be at such place as the Central Government may specify and for the purposes of facilitating the registration of layout-designs, there may be established, at such places as the Central Government may think fit, branch offices of the Semiconductor Integrated Circuits Layout-Design Registry.

(3) The Central Government may, by notification in the Official Gazette, define the territorial limits within which an office of the Semiconductor Integrated Circuits Layout-Design Registry may exercise its functions.

(4) There shall be seal of the Semiconductor Integrated Circuits Layout-Design Registry.

**Register of Layout-Designs.**

6. (1) For the purposes of this Act, a record called the Register of Layout-Designs shall be kept at the head office of the Semiconductor Integrated Circuits Layout-Design Registry wherein shall be entered all registered layout-designs with the names, addresses and descriptions of the proprietor and such other matters related to the registered layout-designs as may be prescribed.

(2) Subject to the superintendence and direction of the Central Government, the register shall be kept under the control and management of the Registrar.

(3) There shall be kept at each Branch office of the Semiconductor Integrated Circuits Layout-Design Registry a copy of the register and other documents as the Central Government may, by notification in the Official Gazette, direct.

## 7. (1) A layout-design—

- (a) which is not original; or
- (b) which has been commercially exploited anywhere in India or in a convention country; or
- (c) which is not inherently distinctive; or
- (d) which is not inherently capable of being distinguishable from any other registered layout-design,

shall not be registered as a layout-design:

Provided that a layout-design which has been commercially exploited for not more than two years from the date on which an application for its registration has been filed either in India or in a convention country shall be treated as not having been commercially exploited for the purposes of this sub-section.

(2) A layout-design shall be considered to be original if it is the result of its creator's own intellectual efforts and is not commonly known to the creators of layout-designs and manufacturers of semiconductor integrated circuits at the time of its creation:

Provided that a layout-design consisting of such combination of elements and interconnections that are commonly known among creators of layout-designs and manufacturers of semiconductor integrated circuits shall be considered as original if such combination taken as a whole is the result of its creator's own intellectual efforts.

(3) Where an original layout-design has been created in execution of a commission or a contract of employment, the right of registration to such layout-design under this Act shall belong, in the absence of any contractual provision to the contrary, to the person who commissioned the work or to the employer.

### CHAPTER III

#### PROCEDURE FOR AND DURATION OF REGISTRATION

8. (1) Any person claiming to be the creator of a layout-design, who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his layout-design.

Application  
for regis-  
tration.

(2) Every application under sub-section (1) shall be filed in the office of the Semiconductor Integrated Circuits Layout-Design Registry within whose territorial limits the principal place of business in India of the applicant or in the case of joint application the principal place of business in India of the applicant whose name is first mentioned in the application, as having a place of business in India, is situate:

Provided that, where the applicant or any of the joint applicant does not carry on business in India, the application shall be filed in the office of the Semiconductor Integrated Circuits Layout-Design Registry within whose territorial limits the place mentioned in the address for service in India as disclosed in the application is situate.

(3) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments or modifications, as he may think fit.

9. Where after the acceptance of an application for registration of layout-design, but before its registration, the Registrar is satisfied that the layout-design is prohibited of registration under section 7, the Registrar may, after hearing the applicant if he so desires, withdraw the acceptance and proceed as if the application had not been accepted.

Withdrawal of  
acceptance.

10. (1) When an application for registration of a layout-design has been accepted, the Registrar shall, within fourteen days after the date of acceptance, cause the application as accepted to be advertised in the prescribed manner.

Advertisement  
of applica-  
tion.

(2) Where after advertisement of an application—

- (a) an error in the application has been corrected; or
- (b) the application has been permitted to be amended under section 12,

the Registrar may in his discretion cause the application to be advertised again or, in any case falling under clause (b), may, instead of causing the application to be advertised again, notify in the prescribed manner the correction or amendment made in the application.

**Opposition to registration.**

11. (1) Any person may, within three months from the date of the advertisement or re-advertisement of an application for registration or within such further period, not exceeding one month in the aggregate, as the Registrar, on application made to him in the prescribed manner and on payment of the prescribed fee, allows, give notice in writing in the prescribed manner to the Registrar of opposition to the registration.

(2) The Registrar shall serve a copy of the notice on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner a counter-statement of the grounds on which he relies for his application and if he does not do so, he shall be deemed to have abandoned his application.

(3) If the applicant sends such counter-statement, the Registrar shall serve a copy thereof on the person giving notice of opposition.

(4) Any evidence upon which the opponent and the applicant may rely shall be submitted in the prescribed manner and within the prescribed time to the Registrar, the Registrar shall give an opportunity to them to be heard, if they so desire.

(5) The Registrar shall, after hearing the parties, if so required, and considering the evidence, decide, after taking into account any ground of objection whether relied upon by the opponent or not.

(6) When a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar may require him to give security for the costs of proceedings before him and, in default of such security being duly given, may treat the opposition or application, as the case may be, as abandoned.

**Correction and amendment.**

12. The Registrar may on such terms as he thinks just—

(a) at any time, whether before or after acceptance of an application for registration under section 8, permit the correction of any error in or in connection with the application or permit an amendment of the application; or

(b) permit correction of any error in, or an amendment of, a notice of opposition or a counter-statement under section 11.

**Registration.**

13. (1) Subject to the provisions of section 9, when an application for the registration of the layout-design has been accepted and either—

(a) the application has not been opposed and time for notice of opposition has expired; or

(b) the application has been opposed and the opposition has been decided in favour of the applicant,

the Registrar shall register the said layout-design in the register and the layout-design shall be registered as of the date of the making of the said application and that date shall be deemed to be the date of registration.

(2) On the registration of a layout-design, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Semiconductor Integrated Circuits Layout-Design Registry.

(3) Where registration of a layout-design is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

(4) The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

**14. (1)** Save as provided in sub-section (2), nothing in this Act shall authorise the registration of two or more persons who claim to be the creator of a layout-design.

Jointly owned layout-design.

(2) Where the relation between two or more persons claiming to be the creator of layout-design are such that—

(a) both of them or all of them have put the combined intellectual effort in creating such design; or

(b) in relation to the creation of such layout-design both of them or all of them are connected in such manner that intellectual effort of each of them are not distinguishable in creation of such layout-design,

those persons may be registered as joint proprietor of the layout-design and this Act shall have effect in relation to any right to the use of the layout-design vested in those persons as if in those rights vested in a single person.

**15.** The registration of a layout-design shall be only for a period of ten years counted from the date of filing an application for registration or from the date of first commercial exploitation anywhere in India or in any country whichever is earlier.

Duration of registration.

#### CHAPTER IV

##### EFFECT OF REGISTRATION

**16.** No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered layout-design.

No action of infringement of unregistered layout-design.

Rights conferred by registration.

**17.** Subject to the other provisions of this Act, the registration of a layout-design shall, if valid, give to the registered proprietor of layout-design the exclusive right to the use of the layout-design and to obtain relief in respect of infringement in the manner provided by this Act.

*Explanation.*—For removal of doubts, it is hereby declared that the rights conferred by the registration of a layout-design shall be available to the registered proprietor of that layout-design irrespective of the fact as to whether the layout-design is incorporated in an article or not.

**18. (1)** A registered layout-design is infringed by a person who, not being the registered proprietor of the layout-design or a registered user thereof,—

Infringement of layout-design.

(a) does any act of reproducing, whether by incorporating in a semiconductor integrated circuit or otherwise, a registered layout-design in its entirety or any part thereof, except such act of reproducing any part thereof which is not original within the meaning of sub-section (2) of section 7;

(b) subject to the provisions of sub-section (5), does any act of importing or selling or otherwise distributing for commercial purposes a registered layout-design or a semiconductor integrated circuit incorporating such registered layout-design or an article incorporating such a semiconductor integrated circuit containing such registered layout-design for the use of which such person is not entitled under this Act.

(2) Notwithstanding anything contained in section 17, sub-section (1) or sub-section

(5), the performance of the act of reproduction referred to in clause (a) of sub-section (1), where such act is performed for the limited purposes of scientific evaluation, analysis, research or teaching, shall not constitute act of infringement within the meaning of that clause.

(3) Where a person, on the basis of scientific evaluation or analysis of a registered layout-design, creates another layout-design which is original within the meaning of sub-section (2) of section 7, that person shall have the right to incorporate such another layout-design in a semiconductor integrated circuit or to perform any of the acts referred to in sub-section (1) or sub-section (5) in respect of such another layout-design and such incorporation or performance of any act shall not be regarded as infringement within the meaning of sub-section (1).

(4) Where a layout-design is created by the process of scientific evaluation or analysis of the registered layout-design as referred to in sub-section (3), the use of such layout-design by the proprietor of such registered layout-design shall be regarded as infringement within the meaning of sub-section (1) after the date of registration of such layout-design under this Act.

(5) Notwithstanding anything contained in clause (b) of sub-section (1), the performance of any of the acts referred to in that clause by a person shall not be regarded as infringement within the meaning of that clause if such act is performed or directed to be performed in respect of a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit where such person does not possess any knowledge or has no reasonable ground to know while performing or directing to be performed such act in respect of such semiconductor integrated circuit or article that it incorporated a registered layout-design but after the time when such person has received notice of such knowledge, he may continue to perform or directing to be performed such act in respect of the stock on hand or ordered before such time and, then, he shall be liable to pay the proprietor of the registered layout-design a sum by way of royalty to be determined by negotiation between registered proprietor of the registered layout-design and that person or by the Appellate Board having regard to the benefit accrued to such person by performing or directing to be performed such act in respect of such semiconductor integrated circuit or article, as the case may be.

(6) Where any other person purchases a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit referred to in sub-section (5) from a person referred to in that sub-section, then, such other person shall be entitled to the immunity from infringement in respect of that semiconductor integrated circuit or article, as the case may be, to the extent and in the manner as if the word "person" referred in that sub-section includes the word any other person referred in this sub-section.

(7) Nothing contained in clause (b) of sub-section (1) shall be construed as constituting an act of infringement where any person performs any of the acts specified in that clause with the written consent of the registered proprietor of a registered layout-design or within the control of the person obtaining such consent, or in respect of a registered layout-design or a semiconductor integrated circuit incorporating a registered layout-design or any article incorporating such a semiconductor integrated circuit, that has been put on the market by or with the consent of the registered proprietor of such registered layout-design.

(8) Notwithstanding anything contained in this Act, where any person by application of independent intellect has created a layout-design which is identical to a registered layout-design, then, any act of such person in respect of the layout-design so created shall not be the infringement of the registered layout-design.

Registration to  
be *prima facie*  
evidence of  
validity.

19. (1) In all legal proceedings relating to a layout-design registered under this Act (including application under section 30), the original registration of the layout-design and all subsequent assignments and transmissions of layout-design shall be *prima facie* evidence of the validity thereof.

(2) In all legal proceedings as aforesaid, a registered layout-design shall not be held to be invalid on the ground that it was not a registerable layout-design under section 7 except upon evidence of originality and that such evidence was not submitted to the Registrar before registration.

## CHAPTER V

### ASSIGNMENT AND TRANSMISSION

**20.** The person for the time being included in the register as proprietor of a layout-design shall, subject to the provisions of this Act and to any right appearing from the register to be vested in any other person, have power to assign the layout-design, and to give effectual receipts for any consideration for such assignment.

Power of Registered Proprietor to assign and give receipts.

**21.** Notwithstanding anything in any other law to the contrary, a registered layout-design shall, subject to the provisions of this Chapter, be assignable and transmissible whether with or without the goodwill of the business concerned.

Assignability and transmissibility of registered layout-design.

**22.** Where an assignment of a registered layout-design is made otherwise than in connection with the goodwill of business in which such layout-design has been or is used, the assignment shall not take effect unless the assignee, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, not exceeding three months in the aggregate, as the Registrar may allow, apply to the Registrar for directions with respect to the advertisement of the assignment, and advertises it in such form and manner and within such period as the Registrar may direct.

Conditions for assignment otherwise than in connection with the goodwill of a business.

**23. (1)** Where a person becomes entitled by assignment or transmission to a registered layout-design, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of his title to his satisfaction, register him as the proprietor of the layout-design and shall cause particulars of the assignment or transmission to be entered on the register:

Registration of assignments and transmissions.

Provided that where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the party have been determined by a competent court.

(2) Except for the purpose of an application before the Registrar under sub-section (1) or an appeal from an order thereon, or an application under section 30 or an appeal from an order thereon, a document or instrument in respect of which no entry has been made in the register in accordance with sub-section (1), shall not be admitted in evidence by the Registrar or the Appellate Board or any court in proof of title to the layout-design by assignment or transmission unless the Registrar or the Appellate Board or the court, as the case may be, otherwise directs.

## CHAPTER VI

### USE OF LAYOUT-DESIGN AND REGISTERED USERS

**24.** Subject to the provisions of section 25, a person other than the registered proprietor of a layout-design may be registered as a registered user thereof.

Registered users.

**25. (1)** Where it is proposed that a person should be registered as a registered user of a layout-design, the registered proprietor and the proposed registered user shall jointly apply in writing to the Registrar in the prescribed manner and every such application shall be accompanied by—

Registration as registered user.

(a) the agreement in writing or a duly authenticated copy thereof, entered into between the registered proprietor and the proposed registered user with respect to the permitted use of the layout-design; and

(b) an affidavit made by the registered proprietor or by some person authorised to the satisfaction of Registrar to act on his behalf—

(i) giving particulars of the relationship, existing or proposed, between the registered proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which the relationship will confer and whether it is a term of their relationship that the proposed registered user shall be sole registered user or that there shall be any other restriction as to persons for whose registration as registered user application may be made;

(ii) stating the conditions or restrictions, if any, proposed with respect to the place of permitted use or any other matter;

(iii) stating whether the permitted use to be for a period or without limit of period, and, if for a period, the duration thereof; and

(c) such further documents or other evidence as may be required by the Registrar or as may be prescribed.

(2) Where the requirement of sub-section (1) have been complied with, the Registrar shall register the proposed registered user.

(3) The Registrar shall issue notice in the prescribed manner of the registration of a person as a registered user to other registered users of the layout-design, if any.

(4) The Registrar shall, if so requested by the applicant, take steps of securing that information given for the purposes of an application under this section (other than matters entered in the register) is not disclosed to rivals in trade.

**Power of  
Registrar for  
cancellation of  
registration as  
registered user.**

26. (1) Without prejudice to the provisions of section 30, the registration of a person as registered user—

(a) may be cancelled by the Registrar on application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the layout-design;

(b) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, namely:—

(i) that the registered user has used the layout-design otherwise than in accordance with the agreement under clause (a) of sub-section (1) of section 25;

(ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for registration which if accurately represented or disclosed would not have justified the registration of the registered user;

(iii) that the circumstances have changed since the date of registration in such a way that at the date of such application for cancellation they would not have justified registration of the registered user;

(iv) that the registration ought not to have been effected having regard to right vested in the applicant by virtue of a contract in the performance of which he is interested.

(c) may be cancelled by the Registrar on his own motion or on the application in writing in the prescribed manner by any person on the ground that any stipulation in the agreement between the registered proprietor and the registered user regarding the topographical dimensions of the layout-design is either not being enforced or is not being complied with;

(d) may be cancelled by the Registrar if the layout-design is no longer registered.

(2) The Registrar shall issue notice in the prescribed manner in respect of every application under this section to the registered proprietor and each registered user (not being the applicant) of the layout-design.

(3) The procedure for cancelling a registration shall be such as may be prescribed:

Provided that before cancelling of registration, the registered proprietor shall be given a reasonable opportunity of being heard.

27. (1) The Registrar may, at any time during the continuance of the registration of the registered user, by notice in writing, require the registered proprietor to confirm to him within one month that the agreement filed under clause (a) of sub-section (1) of section 25 continues to be in force.

(2) If the registered proprietor fails to furnish the confirmation within one month as required under sub-section (1), the registered user shall cease to be the registered user on the day immediately after the expiry of said period and the Registrar shall notify the same.

28. Subject to any agreement subsisting between the parties, a registered user may make complaint before the competent criminal court for the infringement in his own name as if he were the registered proprietor.

Power of Registrar to call for information relating to agreement in respect of registered users.

Right of registered user to take proceedings against infringement.

Registered user not to have right of assignment or transmission.

29. Nothing in this Act shall confer on a registered user of a layout-design any assignable or transmissible right to the use thereof.

*Explanation I.*—The right of a registered user of a layout-design shall not deem to have been assigned or transmitted within the meaning of this section in the following cases, namely:—

(a) where the registered user being an individual enters into a partnership with any other person for carrying on the business concerned; but in any such case the firm may use the layout-design, if otherwise in force, only for so long as the registered user is a member of the firm;

(b) where the registered user being a firm subsequently undergoes a change in its constitution; but in any such case the reconstituted firm may use the layout-design, if otherwise in force, only for so long as any partner of the original firm at the time of its registration as registered user, continues to be a partner of the reconstituted firm.

*Explanation II.*—For the purposes of *Explanation I.*, “firm” has the same meaning as in the Indian Partnership Act, 1932.

## CHAPTER VII

### RECTIFICATION AND CORRECTION OF THE REGISTER

30. (1) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the Appellate Board or to the Registrar, and the Appellate Board or the Registrar, as the case may be, may make such order for making, expunging or varying the entry as it may think fit.

Power to rectify the register.

(2) The Appellate Board or the Registrar may in any proceedings under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(3) The Appellate Board or the Registrar, of its own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1).

(4) Any order of the Appellate Board rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice, rectify the register accordingly.

Correction of register.

31. (1) The Registrar may, on application made in the prescribed manner by the registered proprietor,—

(a) correct any error in the name, address or description of the registered proprietor of a layout-design, or any other entry relating to the layout-design;

(b) enter any change in the name, address or description of the person who is registered as proprietor of a layout-design;

(c) cancel the entry of a layout-design on the register,

and may make any consequential amendment or alteration in the certificate of registration, and for that purpose, may require the certificate of registration to be produced to him.

(2) The Registrar may, on application made in the prescribed manner by a registered user of a layout-design, and after notice to the registered proprietor, correct any error, or enter any change in the name, address or description of the registered user.

## CHAPTER VIII

### APPELLATE BOARD

Establishment of Layout-Design Appellate Board.

32. The Central Government shall, by notification in the Official Gazette, establish an Appellate Board to be known as the Layout-Design Appellate Board to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Composition of Appellate Board.

33. (1) The Appellate Board shall consist of a Chairperson, Vice-Chairperson, and such other Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Appellate Board may be exercised by a Bench thereof.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member and shall sit at such place as the Central Government may, by notification in the Official Gazette, specify.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson—

(a) may, in addition to discharging the functions of the Judicial Member or Technical Member of the Bench to which he is appointed, discharge the function of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;

(b) may transfer a Member from one Bench to another Bench;

(c) may authorise Vice-Chairperson, the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Judicial Member or the Technical Member, as the case may be, of another Bench.

(4) Where any Benches are constituted, the Central Government may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Board amongst the Benches and specify the matters which may be dealt by each Bench.

*Explanation.*—For the removal of doubts, it is hereby declared that the expression "matter" includes an application or appeal under section 40 or section 42.

(5) If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the

opinion of the majority of the Members who have heard the case including those who first heard it.

**34. (1)** A person shall not be qualified for appointment as Chairperson unless he—

(a) is, or has been, a Judge of a High Court; or

(b) has, for at least two years, held the office of a Vice-Chairperson.

(2) A person shall not be qualified for appointment as a Vice-Chairperson, unless he—

(a) has, for at least two years, held the office of a Judicial Member or a Technical Member; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that Service or any higher post for at least five years.

(3) A person shall not be qualified for appointment as a Judicial Member unless he—

(a) has been a member of the Indian Legal Service and has held the post in Grade I of that Service for at least three years; or

(b) has, for at least ten years, held a civil judicial office.

(4) A person shall not be qualified for appointment as a Technical Member, unless he possesses a Master's Degree in Physics or Bachelor's Degree in Electronics Engineering or Electrical Engineering or Computer Engineering from an University or Institution established under law for the time being in force and has held a post equivalent to the post of Joint Secretary to the Government of India or any higher post for at least five years and possesses at least five years' experience in the area of semiconductors.

(5) Subject to the provisions of sub-section (6), the Chairperson, Vice-Chairperson and every other Member shall be appointed by the President of India.

(6) No appointment of a person as the Chairperson shall be made except after consultation with the Chief Justice of India.

**35.** The Chairperson, Vice-Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

(a) in the case of Chairperson and Vice-Chairperson, the age of sixty-five years; and

(b) in the case of Member, the age of sixty-two years,

whichever is earlier.

**36. (1)** In the event of occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson and in his absence the senior-most Member shall act as Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to his absence, illness or any other cause, the Vice-Chairperson and in his absence the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duty.

**37. (1)** The salaries and allowance payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Vice-Chairperson and other Members shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), a person who, immediately before the date of assuming office as the Chairperson, Vice-Chairperson or other Member, was in service of Government shall be deemed to have retired from service on the date on which he enters upon as the Chairperson, Vice-Chairperson or other Member, as the case may be.

Qualifications for appointment as Chairperson, Vice-Chairperson, or other Members.

Term of office of Chairperson, Vice-Chairperson and Members.

Vice-Chairperson or senior-most Member to act as Chairperson or discharge his function in certain circumstances.

Salaries, allowances and other terms and conditions of service of Chairperson, Vice-Chairperson and other Members.

**Resignation and removal.**

**38. (1)** The Chairperson, Vice-Chairperson and any other Member may, by notice in writing under his hand addressed to the President of India, resign his office:

Provided that the Chairperson, Vice-Chairperson or any other Member shall, unless he is permitted by the President of India to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

**(2)** The Chairperson, Vice-Chairperson or any other Member shall not be removed from his office except by an order by the President of India on the ground of proved misbehaviour or incapacity after an enquiry made by a Judge of the Supreme Court in which the Chairperson, Vice-Chairperson or other Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

**(3)** The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson or other Member referred to in sub-section (2).

**Staff of Appellate Board.**

**39. (1)** The Central Government shall determine the nature and categories of the officers and other employees required to assist the Appellate Board in the discharge of its functions and provide the Appellate Board with such officers and other employees as it may think fit.

**(2)** The salaries and other allowances and conditions of service of the officers and other employees of the Appellate Board shall be such as may be prescribed.

**(3)** The officers and other employees of the Appellate Board shall discharge their functions under the general superintendence of the Chairperson in the manner as may be prescribed.

**Application to the Appellate Board to determine royalty.**

**40. (1)** The registered proprietor of a registered layout-design may make an application to the Appellate Board for determination of royalty under sub-section (5) of section 18.

**(2)** Every application under sub-section (1) shall be in such form and be accompanied by such affidavits, documents or any other evidence and by such fee in respect of the filing of such application and by such other fees for the service or execution of processes as may be prescribed.

**(3)** On receipt of an application under sub-section (1), the Appellate Board shall, after giving notice to the opposite party to file opposition within the prescribed time and manner and after giving opportunity of being heard to the applicant and the opposite party, dispose of the application.

**(4)** An order or decision made by the Appellate Board in disposing of the application under sub-section (3) shall be executable by a civil court having local jurisdiction as if it were a decree made by that court.

**Power of the Board to cancel registration.**

**41. (1)** Any person may make an application, in the prescribed form accompanied by prescribed fee, to the Appellate Board for cancellation of the registration of a layout-design registered under this Act or registration of assignment or transmission relating thereto, as the case may be, on the ground that—

**(a)** in the case of the registration of a layout-design, the layout-design is prohibited for being registered under section 7; or

**(b)** in the case of the registration of assignment or transmission relating to a registered layout-design, such assignment or transmission is contrary to any provision of the law for the time being in force.

**(2)** The Appellate Board shall, on receipt of an application under sub-section (1), give notice to the opposite parties in the prescribed manner and after giving them an opportunity of being heard, make such order as it may deem fit regarding cancellation of registration:

Provided that where the ground of cancellation has been established with respect only to a part of a layout-design, the Board shall cancel only such part and the remaining part of the layout-design if capable of performing as a semiconductor integrated circuit shall be retained as registered on the register in the name of the registered proprietor of such layout-design.

(3) Any cancellation of the registration of a layout-design either in whole or in part under sub-section (2) shall be deemed to be effective on the date from which the period of ten years referred to in section 15 is countable in respect of that layout-design.

(4) The Appellate Board shall, without delay after making any order of cancellation under sub-section (2), send a copy of such order to the Registrar who shall correct the register to give effect to such order.

**42. (1)** Any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder may prefer an appeal to the Appellate Board within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal.

Appeal to  
Appellate  
Board.

(2) No appeal shall be admitted if it is preferred after the expiry of the period specified under sub-section (1):

Provided that an appeal may be admitted after the expiry of the period specified therefor, if the appellant satisfies the Appellate Board that he had sufficient cause for not preferring the appeal within the specified period.

(3) An appeal to the Appellate Board shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and by such fees as may be prescribed.

5 of 1908.

**43. (1)** The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by principles of natural justice and, subject to the provisions of this Act and the rules made thereunder, the Appellate Board shall have powers to regulate its own procedure including the fixing of places and times of its hearing.

Procedure and  
powers of  
Appellate  
Board.

5 of 1908.

(2) The Appellate Board shall have, for the purpose of discharging its functions under this Act, 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) receiving evidence;
- (b) issuing commissions for examination of witnesses;
- (c) requisitioning any public record; and
- (d) any other matter which may be prescribed.

45 of 1860.

(3) Any proceeding before the Appellate Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code, and the Appellate Board shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Bar of  
jurisdiction of  
courts, etc.

2 of 1974.

**44.** No court or other authority shall have or, be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in sub-section (1) of section 40 or sub-section (1) of section 42.

Bar to appear  
before Ap-  
pellate Board.

**45.** On ceasing to hold office, the Chairperson, Vice-Chairperson or other Members shall not appear before the Appellate Board or the Registrar.

**46.** Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or any other manner) shall be made on, or in any proceedings relating to, an appeal unless—

Conditions as  
to making of  
interim order.

- (a) copies of such appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such appeal is made or proposed

to be made; and

(b) opportunity is given to such party to be heard in the matter.

**47.** On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson may transfer any case pending before one Bench, for disposal, to any other Bench.

Power of  
Chairperson to  
transfer cases  
from one  
Bench to  
another.

Procedure for  
application for  
rectification,  
etc., before  
Appellate  
Board.

Appearance of  
Registrar in  
legal proceed-  
ings.

Registrar to  
refer certain  
disputes to the  
Board.

Power of the  
Board to  
permit certain  
uses.

**48. (1)** An application for rectification of the register made to the Appellate Board under section 30 shall be in such form as may be prescribed.

(2) A certified copy of every order or judgment of the Appellate Board relating to a registered layout-design under this Act shall be communicated to the Registrar by the Board and the Registrar shall give effect to the order of the Board and shall, when so directed, amend the entries in, or rectify, the register in accordance with such order.

**49. (1)** The Registrar shall have the right to appear and be heard—

(a) in any legal proceedings before the Appellate Board in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the Semiconductor Integrated Circuit Layout-Design Registry is raised;

(b) in any appeal to the Board from an order of the Registrar on an application for registration of a layout-design—

(i) which is not opposed, and the application is either refused by the Registrar or is accepted by him subject to any amendments or modifications, or

(ii) which has been opposed and the Registrar considers that his appearance is necessary in the public interest,

and the Registrar shall appear in any case if so directed by the Board.

(2) Unless the Appellate Board otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue or of the grounds of any decision given by him affecting it, or of the practice of the Semiconductor Integrated Circuits Layout-Design Registry in like cases, or of other matters relevant to the issues and within his knowledge as Registrar, and such statement shall be evidence in the proceeding.

**50.** If any question arises in any proceedings before Registrar, whether a layout-design has been commercially exploited for more than two years anywhere in a convention country for the purpose of registration of such layout-design under this Act, the Registrar shall refer such question to the Appellate Board, and the decision of the Board thereon shall be final.

**51. (1)** Notwithstanding anything contained in this Act, the Appellate Board may on an application made in the prescribed manner before it on behalf of the Government or by any person authorised by the Government and after giving notice of such application to the registered proprietor of a layout-design and providing the opportunity of being heard to the parties concerned permit the use of such registered layout-design by the Government or by such person so authorised, as the case may be, subject to any or all of the following conditions as the Board deems fit under the circumstances of such use, namely:—

(a) that the use of the layout-design shall be for non-commercial public purposes or for the purposes relating to national emergency or of extreme public urgency;

(b) that the duration of the use of the layout-design shall be limited for a period specified by the Board.

(c) that the use of the layout-design shall be non-assignable and non-transmissible;

(d) that the use of the layout-design shall be to the extent which the Board deems necessary to remedy the anti-competitive practice;

(e) that the use of the layout-design shall be predominantly for the supply of semiconductor integrated circuits or articles incorporating semiconductor integrated circuits in domestic market of India:

Provided that Board shall not permit the use of a registered layout-design, by any such person authorised by the Government, under this sub-section unless the Board is satisfied that such person so authorised has made efforts to enter into agreement with the registered proprietor of such layout-design on reasonable commercial terms and conditions for permitted use of such layout-design and such efforts had not been successful within prescribed period:

Provided further that the first proviso shall not be applicable in a case where the person so authorised produces to the Board a certificate issued by the Government to the effect that such use is required due to national emergency or any other circumstances which the Government considers to be of extreme urgency or of public non-commercial use.

(2) The Appellate Board shall, while granting the permission for the use of a registered layout-design under sub-section (1), determine the amount of royalty to be paid by the Government or the person authorised by the Government, as the case may be, to the registered proprietor of such layout-design for such permitted use.

(3) The Appellate Board may, on the application of the registered proprietor of a layout-design referred to in sub-section (1), may review the permission granted under that sub-section and, after giving notice and opportunity of hearing to the parties concerned in the prescribed manner, cancel or amend such permission if the Board is satisfied that any of the conditions subject to which the permission was granted has not been observed or the circumstances which led to the granting of such permission has ceased to exist or substantially altered.

**52.** In all proceedings under this Act before the Appellate Board the costs of the Registrar shall be in the discretion of the Board, but the Registrar shall not be ordered to pay the costs of any of the parties.

Costs of  
Registrar in  
proceedings  
before  
Appellate  
Board.

Appeal.

**53. (1)** Any person aggrieved by any decision or order of the Appellate Board under this Act may, within the prescribed period appeal to the High Court within whose jurisdiction of head office or the branch office of the Semiconductor Integrated Circuits Layout-Design Registry against the decision or order of which the appeal arises is situated.

(2) Every such appeal shall be preferred by petition in writing and shall be in such form and shall contain such particulars as may be prescribed.

(3) Subject to the provisions of this Act and the rules made thereunder, the provisions of the Code of Civil Procedure, 1908 shall apply to appeals before a High Court under this Act.

**54.** The High Court may make rules consistent with this Act as to the conduct and procedure of all proceeding under this Act before it.

Powers of  
High Courts to  
make rules.

**55.** Notwithstanding anything contained in this Act, till the establishment of the Appellate Board under section 32, the Intellectual Property Appellate Board established under section 83 of the Trade Marks Act, 1999 shall exercise the jurisdiction, powers and authority conferred on the Appellate Board under this Act subject to the modification that in any Bench of such Intellectual Property Appellate Board constituted for the purposes of this section, for the Technical Member referred to in sub-section (2) of section 84 of the Trade Marks Act, 1999, the Technical Member shall be appointed under this Act and he shall be deemed to be the Technical Member for constituting the Bench under the said sub-section

Transitional  
provisions.

(2) of section 84 for the purposes of this Act.

## CHAPTER IX

### OFFENCES, PENALTIES AND PROCEDURE

**Penalty for infringement of layout-design.**

**56.** Any person who contravenes knowingly and wilfully any of the provisions of section 18 shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than fifty-thousand rupees but which may extend to ten lakh rupees, or with both.

**Penalty for falsely representing a layout-design as registered.**

**57. (1)** No person shall make any representation with respect to a layout-design not being a registered layout-design, to the effect that it is a registered layout-design.

**(2)** If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

**(3)** For the purposes of this section, the use in India in relation to a layout-design of the word "registered", or of any other expression referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

**(a)** where that word or other expression, is used in direct association with other words delineated in characters at least as large as those in which that word or other expression is delineated and indicating that the reference is to registration as a layout-design under the law of a country outside India being a country under the law of which the registration referred to is in fact in force; or

**(b)** where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (a); or

**(c)** where that word is used in relation to a layout-design registered as a layout-design under the law of a country outside India and in relation solely to such layout-design.

**Penalty for improperly describing a place of business as connected with the Semiconductor Integrated Circuits Layout-Design Registry.**

**58.** If any person uses on his place of business, or on any document issued by him, or otherwise, words which would reasonably lead to the belief that his place of business is, or is officially connected with, the Semiconductor Integrated Circuits Layout-Design Registry, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**Penalty for falsification of entries in the register.**

**59.** If any person makes, or causes to be made, a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

**Forfeiture of goods.**

**60. (1)** Where a person is convicted of an offence under section 56, the court convicting him may direct the forfeiture to Government of all goods and things by means of, or in relation to, which the offence has been committed.

**(2)** When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

**(3)** When a forfeiture is directed on a conviction, the court, before whom the person is convicted, may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

**61. Where a person accused of an offence under section 56 proves—**

- (a) that in the case which is the subject of the charge he was so employed that it relates to the duty of his employment, and was not interested in the profit accruing from such commission of offence except the duty of his employment; and
- (b) that, having taken all reasonable precautions against committing the offence charged, he had, at the time of commission of the alleged offence, no reason to suspect the genuineness of the registered layout-design or a semiconductor integrated circuit in which such layout-design is incorporated; and
- (c) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the commission of such offence,

he shall be acquitted.

**62. (1) Where the offence charged under section 56 is in relation to a registered layout-design and the accused pleads that the registration of the layout-design is invalid, the following procedure shall be followed:**

- (a) if the court is satisfied that such defence is *prima facie* tenable, it shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of accused is recorded to enable the accused to file an application before the Appellate Board under this Act, for the rectification of the register on the ground that the registration is invalid;
- (b) if the accused proves to the court that he has made such application within the time so limited or within such further time as the time court may for sufficient cause may allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification;
- (c) if within a period of three months or within such extended time as may be allowed by the court the accused fails to apply to the Appellate Board for rectification of the register, the court shall proceed with the case as if the registration were valid.

**(2) Where before the institution of a complaint of an offence referred to in sub-section (1), any application for the rectification of the register concerning the layout-design in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the Appellate Board or the Registrar, the Court shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his layout-design.**

**63. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:**

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

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

Exemption of certain persons employed in ordinary course of business.

Procedure where invalidity of registration is pleaded by the accused.

Offences by companies.

(a) "company" means any body corporate and includes a firm or other association or individuals; and.

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

Cognizance of certain offences.

64. No. court shall take cognizance—

(a) of an offence under section 56 or section 57 except on the complaint in writing made by the registered proprietor or the registered user of a layout-design in respect of which the offence has been committed;

(b) of an offence under section 58 or section 59 except on complaint in writing made by the Registrar or any officer authorised by him in writing.

Costs of defence or prosecution.

65. In any prosecution under this Act, the court may order such costs to be paid by the accused to the complainant, or by the complainant to the accused, as the court deemed reasonable having regard to all the circumstances of the case and the conduct of the parties. Costs so awarded shall be recoverable as if they were a fine.

Information as to commission of offence.

66. An officer of the Government whose duty it is to take part in the enforcement of the provisions of this Chapter, shall not be compelled in any court to say whence he got any information as to the commission of any offence against this Act.

Punishment of abetment in India of acts done out of India.

67. If any person, being within India, abets the commission, without India, of any act which, if committed in India, would, under this Act, be an offence, he may be tried for such abetment in any place in India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

## CHAPTER X

### MISCELLANEOUS

Protection of security of India.

68. Notwithstanding anything contained in this Act, the Registrar shall—

(a) not disclose any information relating to the registration of a layout-design or any application relating to the registration of a layout-design under this Act which the Central Government considers prejudicial to the interest of the security of India; and

(b) take any action, including the cancellation of registration of a layout-design registered under this Act, which the Central Government may, by notification in the Official Gazette, specify in the interest of security of India.

*Explanation.*—For the purposes of this section, the expression "interest of the security of India" means any action necessary for the security of India which relates to the use of a layout-design or a semiconductor integrated circuit incorporating a layout-design or an article incorporating such semiconductor integrated circuit and which—

(a) relates to fissionable materials or the materials from which they are derived; or

(b) relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; or

(c) is taken in time of war or other emergency in international relations.

Protection of action taken in good faith.

69. No suit or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Certain persons to be public servants.

70. Every person appointed, under this Act and every Member of the Appellate Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**71.** Where a registered layout-design, or a semiconductor integrated circuit in which a registered layout-design is incorporated, or an article incorporating such a semiconductor integrated circuit is sold or has been contracted for sale, the seller shall be deemed to warrant that the registration, of such layout-design or the layout-design so incorporated is genuine within the meaning of this Act unless the contrary is expressed in writing signed by or on behalf of the seller and delivered at the time of the sale or contract to sell of such layout-design, or semiconductor integrated circuit or article, as the case may be, and accepted by the buyer.

Implied warranty on sale of layout-design, etc.

**72.** In all proceedings under this Act before the Registrar,—

Powers of Registrar.

(a) the Registrar shall have all the powers, of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;

(b) the Registrar may, subject to any rules in this behalf, made under section 96 make such orders as to costs as he considers reasonable, and any such order shall be executable as decree to a civil court;

(c) the Registrar may, on an application made in the prescribed manner, review his own decision.

**73.** Subject to the provisions of section 76, the Registrar shall not exercise any discretionary or other power vested in him by this Act or the rules made thereunder adversely to a person applying for the exercise of the power without (if so required by that person within the prescribed time) giving to the person an opportunity of being heard.

Exercise of discretionary power by Registrar.

**74.** In any proceeding under this Act before the Registrar, evidence shall be given by affidavit:

Evidence before Registrar.

Provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit.

**75.** If a person who is a party to a proceeding under this Act (not being a proceeding before the Appellate Board or a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

Death of party to a proceeding.

**76.** (1) If the Registrar is satisfied, on application made to him in the prescribed manner and accompanied by the prescribed fee, that there is sufficient cause for extending the time for doing any act (not being a time expressly provided in the Act), whether the time so specified has expired or not, he may, subject to such conditions as he may think fit to impose, extend the time and inform the parties accordingly.

Extention of time.

(2) Nothing in sub-section (1) shall be deemed to require the Registrar to hear the parties, before disposing of an application for extension of time and no appeal shall lie from any order of the Registrar under this section.

**77.** Where, in the opinion of the Registrar, an applicant is in default in the prosecution of an application filed under this Act, the Registrar may, by notice require the applicant to remedy the default within a time specified and after giving him, if so desired, an opportunity of being heard, treat the application as abandoned, unless the default is remedied within the time specified in the notice.

Abandonment.

**78.** (1) The Registrar may, on application made to him in the prescribed manner by any person who proposes to apply for the registration of a layout-design, give advice as to whether the layout-design appears to him *prima facie* to be original.

Preliminary advice by the Registrar.

(2) If, on an application for the registration of a layout-design as to which the Registrar has given advice as aforesaid in the affirmative made within three months after the advice was given, the Registrar, after further investigation or consideration, gives notice, to the applicant of objection on the ground that the layout-design is not original, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the filing of the application.

Registered user to be impleaded in certain proceedings.

79. (1) In every proceeding under Chapter VII or under section 42, every registered user of a layout-design, who is not himself an applicant in respect of any proceeding under that Chapter or section shall be made a party to the proceeding.

(2) Notwithstanding anything contained in any other law, a registered user so made a party to the proceeding shall not be liable for any costs unless he enters an appearance and takes part in the proceeding.

Evidence of entries in register, etc., and things done by the Registrar.

80. (1) A copy of any entry in the register or of any document referred to in sub-section (1) of section 87 purporting to be certified by the Registrar and sealed with the seal of the Semiconductor Integrated Circuits Layout-Design Registry shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

(2) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be *prima facie* evidence of the entry having been made, and of the contents thereof, or of the matter or things having been done or not done.

Registrar and other officers not compellable to produce register, etc.

81. The Registrar or any other officer of the Semiconductor Integrated Circuits Layout-Design Registry shall not, in any legal proceedings to which he is not a party, be compellable to produce the register or any other document in his custody, the contents of which can be proved by the production of a certified copy issued under this Act or to appear as a witness to prove the matters therein recorded unless by order of the court made for special cause.

Certificate of validity.

82. If in any legal proceeding for rectification of the register before the Appellate Board a decision is on contest given in favour of the registered proprietor of the layout-design on the issue as to the validity of the registration of the layout-design, the Appellate Board may grant a certificate to that effect, and if such a certificate is granted, then, in any subsequent legal proceedings in which the said validity comes into question, the said proprietor on obtaining a final order or judgment in his favour affirming validity of the registration of the layout-design shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full cost, charges and expenses as between legal practitioner and client.

Address for service.

83. An address for service stated in an application or notice of opposition shall, for the purposes of the application or notice of opposition, be deemed to be the address of the applicant or opponent, as the case may be, and all documents in relation to the application or notice of opposition may be served by leaving them at or sending them by post to the address for service of the applicant or opponent, as the case may be.

Agents.

84. Where, by or under this Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules made in this behalf, be done, instead of by that person himself, by a person duly authorised in the prescribed manner, who is—

- (a) a legal practitioner, or
- (b) a person registered in the prescribed manner as a layout-design agent, or
- (c) a person in the sole and regular employment of the principal.

**85.** If an agent or a representative of the proprietor of a registered layout-design, without authority uses or attempts to register or registers the layout-design in his own name, the proprietor shall be entitled to oppose the registration applied for or secure its cancellation or rectification of the register so as to bring him as the registered proprietor of the said layout-design by assignment in his favour:

Layout-design registered by an agent or representative without authority.

Provided that such action shall be taken within three years of the registered proprietor of the layout-design becoming aware of the conduct of the agent or representative.

**86.** There shall be kept under the direction and supervision of the Registrar—

- (a) an index of registered layout-designs,
- (b) an index of layout-designs in respect of which applications for registration are pending,
- (c) an index of the names of the proprietors of registered layout-designs, and
- (d) an index of the names of registered users.

**87. (1)** Save as otherwise provided in sub-section (4) of section 25,—

- (a) the register and any document upon which any entry in the register is based;
- (b) every notice of opposition to the registration of a layout-design application for rectification before the Registrar, counter-statement thereto, and any affidavit or document filed by the parties in any proceedings before the Registrar; and
- (c) the indexes mentioned in section 86 and such other documents as the Central Government may, by notification in the Official Gazette, specify;

shall, subject to such conditions as may be prescribed, be open to public inspection at the Semiconductor Integrated Circuits Layout-Design Registry.

Documents open to public inspection.

**(2)** Any person may, on an application to the Registrar and on payment of such fees as may be prescribed, obtain a certified copy of any entry in the register or any document referred to in sub-section (1).

**88.** The Central Government shall cause to be placed before both Houses of Parliament once a year a report respecting the execution by or under the Registrar of this Act.

Reports of Registrar to be placed before Parliament.

**89. (1)** There shall be paid in respect of applications and registration and other matters under this Act such fees and surcharge as may be prescribed by the Central Government.

Fees and surcharge.

**(2)** Where a fee is payable in respect of the doing of an act by the Registrar, the Registrar shall not do that act until the fee has been paid.

**(3)** Where a fee is payable in respect of the filing of a document at the Semiconductor Integrated Circuits Layout-Design Registry, the document shall be deemed not to have been filed at the Registry until the fee has been paid.

**90.** Nothing in Chapter IX shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Savings in respect of Chapter IX.

**91.** Notwithstanding anything contained in the Registration Act, 1908, no document declaring or purporting to declare the ownership or title of a person to a layout-design other than a registered layout-design shall be registered under that Act.

Declaration as to ownership of layout-design not registerable under the Registration Act, 1908.

**92.** The provisions of this Act shall be binding on the Government.

Government to be bound.

Convention countries.

**93.** With a view to the fulfilment of a treaty, convention or arrangement with any country outside India which affords to citizens of India similar privileges as granted to its own citizens, the Central Government may, by notification in the Official Gazette, specify such country to be a convention country for providing the citizens of such convention country the similar privileges as granted to the citizens of India under this Act.

*Explanation.*—For the purposes of this section “country” includes any group of countries or union of countries or inter-governmental organisation and the expression “convention country” shall be construed accordingly.

Provision as to reciprocity.

**94.** Where any country specified by the Central Government in this behalf by notification in the Official Gazette under section 93 does not accord to citizens of India the same rights in respect of registration and protection of layout-design as it accords to its own nationals, no national of such country shall be entitled, either solely or jointly with any other person,—

- (a) to apply for the registration of, or be registered as the proprietor of, a layout-design;
- (b) to be registered as the assignee of the proprietor of a registered layout-design; or
- (c) to apply for registration or be registered as a registered user of a layout-design under section 25.

Power of Central Government to remove difficulties.

**95. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

Power to make rules.

**(2)** Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**96. (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:—

- (a) the other matters relating to the registered layout-designs to be entered in the register under sub-section (1) of section 6;
- (b) the manner of applying to the Registrar for registration under sub-section (1) of section 8;
- (c) the manner of advertising the application under sub-section (1) of section 10;
- (d) the manner of notifying the correction or amendment in application under sub-section (2) of section 10;
- (e) the manner of making application, the fee to be paid and the manner of giving notice under sub-section (1) of section 11;
- (f) the manner of sending counter statement under sub-section (2) of section 11;
- (g) the manner of submitting evidence under sub-section (4) of section 11;
- (h) the form of issuing certificate under sub-section (2) of section 13;
- (i) the manner of giving notice under sub-section (3) of section 13;
- (j) the manner of making applications to register the title under sub-section (1) of section 23;
- (k) the manner of applying to Registrar under sub-section (1) of section 25;

- (l) the document to be prescribed under clause (c) of sub-section (1) of section 25;
- (m) the manner of issuing notice under sub-section (3) of section 25;
- (n) the manner of applications under clause (a) of sub-section (1) of section 26;
- (o) the manner of making applications under clause (b) of sub-section (1) of section 26;
- (p) the manner of making applications under clause (c) of sub-section (1) of section 26;
- (q) the manner of issuing notice under sub-section (2) of section 26;
- (r) the procedure of cancelling registration under sub-section (3) of section 26;
- (s) the manner of applying to the Appellate Board under sub-section (1) of section 30;
- (t) the manner of giving notice under sub-section (3) of section 30;
- (u) the manner of serving notice under sub-section (4) of section 30;
- (v) the manner of making application under sub-section (1) of section 31;
- (w) the manner of making application under sub-section (2) of section 31;
- (x) the salaries and allowances payable to and other terms and conditions of service of the Chairperson, Vice-Chairperson and other Members under sub-section (1) of section 37;
- (y) the procedure for investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson and other Members under sub-section (3) of section 38;
- (z) the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Board under sub-section (2) of section 39;
- (za) the manner of general superintendence by the Chairperson under sub-section (3) of section 39;
- (zb) the form of application, the affidavit, documents and other evidence and fee payable in respect of, filing of such application and other fees for the services or execution of process to be accompanied therewith under sub-section (2) of section 40;
- (zc) the time limit for filing the opposition under sub-section (3) of section 40;
- (zd) the form of making application and the fee to be accompanied therewith under sub-section (1) of section 41;
- (ze) the manner of giving notice under sub-section (2) of section 41;
- (zf) the form of appeal, the manner of verification of such appeal and the fee to be accompanied therewith under sub-section (3) of section 42;
- (zg) any other matter to be prescribed under clause (d) of sub-section (2) of section 43;
- (zh) the form of application under sub-section (1) of section 48;
- (zi) the manner of making application under sub-section (1) of section 51;
- (zj) the period to be prescribed under the first proviso to sub-section (1) of section 51;
- (zk) the manner of giving notice and opportunity of hearing to the parties under sub-section (3) of section 51;
- (zl) the period to be prescribed under sub-section (1) of section 53;
- (zm) the form of petition and particulars to be contained therein under sub-section (2) of section 53;

(zn) the manner of reviewing decisions by the registrar under clause (c) of section 72;

(zo) the time to be prescribed under section 73;

(zp) the manner of making application and the fee to be accompanied therewith under sub-section (1) of section 76;

(zq) the manner of making application under sub-section (1) of section 78;

(zr) the period of giving notice of withdrawal of application under sub-section (2) of section 78;

(zs) the manner of authorising a person under section 84;

(zt) the manner of registering a person as a layout-design agent under clause (b) of section 84;

(zu) the conditions to be prescribed under sub-section (1) of section 87;

(zy) the fee payable under sub-section (2) of section 87;

(zw) the fees and the surcharge to be paid under sub-section (1) of section 89;

(zx) 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.

**THE REHABILITATION COUNCIL OF INDIA (AMENDMENT) ACT,  
2000**

**No. 38 OF 2000**

*[4th September, 2000.]*

**An Act to amend the Rehabilitation Council of India Act, 1992.**

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

- 1.** This Act may be called the Rehabilitation Council of India (Amendment) Act, 2000. Short title.
- 2.** In the Rehabilitation Council of India Act, 1992 (hereinafter referred to as the principal Act), in the long title, for the words "the training of rehabilitation professionals and", the words "and monitoring the training of rehabilitation professionals and personnel, promoting research in rehabilitation and special education," shall be substituted. Amendment of long title.
- 3.** In section 2 of the principal Act,— Amendment of section 2.
- (*I*) in sub-section (*I*),—
- (*i*) for clause (*c*), the following clause shall be substituted, namely:—
- ‘(*c*) "handicapped" means a person suffering from any disability referred to in clause (*i*) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;’;
- (*ii*) clauses (*d*) and (*e*) shall be omitted;
- (*iii*) after clause (*m*), the following clause shall be inserted, namely:—

34 of 1992.

1 of 1996.

*'(ma) "rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels;';*

*(iv) clause (o) shall be omitted;*

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

*"(1A) Words and expressions used and not defined in this Act but defined in the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 shall have the meanings respectively assigned to them in that Act.".*

1 of 1996.

Amendment of  
section 3.

**4. In section 3 of the principal Act, in sub-section (3), for clauses (a) and (b), the following clauses shall be substituted, namely:—**

*"(a) a Chairperson, from amongst the persons having experience in administration with professional qualification in the field of rehabilitation, disabilities, and special education, to be appointed by the Central Government;*

*(b) such number of members not exceeding seven, as may be nominated by the Central Government, to represent the Ministries of the Central Government dealing with matters relating to persons with disabilities;".*

Amendment of  
section 13.

**5. In section 13 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—**

*"(2A) Notwithstanding anything contained in sub-section (2), any person being a doctor or a paramedic in the field of physical medicine and rehabilitation, orthopaedics, ear, nose or throat (ENT), ophthalmology or psychiatry, employed or working in any hospital or establishment owned or controlled by the Central Government or a State Government or any other body funded by the Central or a State Government and notified by the Central Government, may discharge the functions referred to in clauses (a) to (d) of that sub-section."*

Amendment of  
section 19.

**6. In section 19 of the principal Act, the following provisos shall be inserted at the end, namely:—**

*"Provided that the Council shall register vocational instructors and other personnel working in the vocational rehabilitation centres under the Ministry of Labour on recommendation of that Ministry and recognise the vocational rehabilitation centres as manpower development centres;*

*Provided further that the Council shall register personnel working in national institutes and apex institutions on disability under the Ministry of Social Justice and Empowerment on recommendation of that Ministry and recognise the national institutes and apex institutions on disability as manpower development centres."*

Amendment of  
section 22.

**7. In section 22 of the principal Act, in sub-section (2), for the words "period of thirty days", at both the places where they occur, the words "period of sixty days" shall be substituted.**

THE STATE FINANCIAL CORPORATIONS (AMENDMENT)  
ACT, 2000

No. 39 OF 2000

[*5th September, 2000.*]

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

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

1. This Act may be called the State Financial Corporations (Amendment) Act, 2000. Short title.

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

(a) in clause (c),—

(i) for sub-clauses (x) to (xiii), the following sub-clauses shall be substituted, namely:—

“(x) providing weigh bridge facilities;

- (xi) providing engineering, technical, financial, management, marketing or other services or facilities for industry;
- (xii) providing medical, health or other allied services;
- (xiii) providing software or hardware services relating to information technology, telecommunications or electronics including satellite linkage and audio or visual cable communication;
- (xiv) the setting up or development of tourism related facilities including amusement parks, convention centres, restaurants, travel and transport (including those at airports), tourist service agencies and guidance and counselling services to the tourists;
- (xv) construction;
- (xvi) development, maintenance and construction of roads;
- (xvii) providing commercial complex facilities and community centres including conference halls;
- (xviii) floriculture;
- (xix) tissue culture, fish culture, poultry farming, breeding and hatcheries;
- (xx) service industry, such as altering, ornamenting, polishing, finishing, oiling, washing, cleaning or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;
- (xxi) research and development of any concept, technology, design, process or product, whether in relation to any of the matters aforesaid, including any activities approved by the Small Industries Bank; or
- (xxii) such other activity as may be approved by the Small Industries Bank;";

(ii) in *Explanation 2*, for the words "Development Bank", in both the places wherever they occur, the words "Small Industries Bank" shall be substituted;

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

'(da) the expression "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, 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;'

(c) clauses (ff) and (fff) shall be re-lettered as clauses (fb) and (fc) thereof and before clause (fb) as so re-lettered, the following clause shall be inserted, namely:—

'(fa) "Small Industries Bank" means the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989;'

23 of 1955.

38 of 1959.

5 of 1970.

40 of 1980.

39 of 1989.

Amendment of  
section 3A.

3. In section 3A of the principal Act, in sub-section (1), for the words "Development Bank", the words "Small Industries Bank" shall be substituted.

Amendment of  
section 4.

4. In section 4 of the principal Act,—

(a) for sub-sections (1), (2) and (3), the following sub-sections shall be substituted, namely:—

"(1) The authorised capital of the Financial Corporation shall be such sum as may be fixed by the State Government in this behalf, but it shall not be less than fifty lakhs of rupees or exceed five hundred crores of rupees:

Provided that the State Government may, on the recommendation of the Small Industries Bank, by notification in the Official Gazette, increase the authorised capital up to one thousand crores of rupees.

(2) Subject to the provisions of section 4D, the authorised capital shall be divided into such number of fully paid-up shares of the same face value and such number of fully paid-up redeemable preference shares of the same face value and shall be issued to the parties mentioned in clauses (a), (b) and (c) of sub-section (3) and in the case of parties referred to in clause (d) of that sub-section, such shares shall be issued at such times and in such manner as the State Government may, by notification in the Official Gazette, determine.

(3) Subject to the approval of the State Government and the Small Industries Bank, the Board shall determine the number of shares which may, respectively, be distributed among—

- (a) the State Government;
- (b) the Small Industries Bank;

(c) public sector banks, the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956, other insurance companies owned or controlled by the Central Government, other institutions owned or controlled by the Central Government or the State Government, as the case may be; and

(d) parties other than those referred to in clause (a), or clause (b) or clause (c);

Provided that the number of shares which may be allocated to parties referred to in clause (d) shall in no case exceed forty-nine per cent. of the total number of issued equity shares:

Provided further that no increase in the issued equity capital shall be made in such a manner that the parties referred to in clause (a) or clause (b) or clause (c) hold in aggregate, at any time less than fifty-one per cent. of the issued equity capital of the Financial Corporation.;

(b) in sub-section (5), for the words "Development Bank", the words "Small Industries Bank" shall be substituted.

**5. In section 4A of the principal Act,—**

(a) for the words "Development Bank", wherever they occur, the words "Small Industries Bank" shall be substituted;

(b) in sub-section (3), the words and figures "section 47 or" shall be omitted;

(c) in sub-section (5), for the words, brackets and figures "sub-section (1) of section 6", the words, brackets and figures "sub-sections (1) to (4) of section 6" shall be substituted.

**6. After section 4C of the principal Act, the following sections shall be inserted, namely:—**

**"4D. (1) On and after the commencement of the State Financial Corporations (Amendment) Act, 2000, the Financial Corporation may—**

(a) issue redeemable preference shares on such terms and in such manner as the Board may decide; and

(b) convert, such number of equity shares as it may decide into redeemable preference shares, with the prior approval of the State Government and the Small Industries Bank, by a resolution passed in the general meeting of the shareholders:

Provided that such conversion shall in no case reduce the equity shares held by the parties referred to in clauses (a), (b) and (c) of sub-section (3) of section 4 to less than fifty-one per cent. of the issued equity capital of the Financial Corporation.

Amendment of  
section 4A.

Insertion of  
new sections  
4D to 4H.

Issue of  
redeemable  
preference  
shares.

(2) The redeemable preference shares referred to in sub-section (1) shall—

(a) carry such fixed rate of dividend as the Financial Corporation may specify at the time of such issue or conversion; and

(b) neither be transferable nor carry any voting rights.

(3) The redeemable preference shares referred to in sub-section (1) shall be redeemed by the Financial Corporation in such instalments and in such manner as the Board may determine.

**Reduction of share capital.**

4E. (1) The Financial Corporation, with the prior approval of the State Government and the Small Industries Bank, may, by resolution passed in a general meeting of the shareholders, reduce its share capital in any way.

(2) Without prejudice to the generality of the foregoing power, the share capital may be reduced by—

(a) extinguishing or reducing the liability on any of its equity shares in respect of share capital not paid-up; or

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid-up share capital which is lost or is unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying off any paid-up share capital which is in excess of the wants of the Financial Corporation.

**Restriction on exercising of voting right.**

4F. Every shareholder of the Financial Corporation holding equity shares shall have a right to vote in respect of such shares on every resolution and his voting right on a poll shall be in proportion to his share of the paid-up equity capital of the Financial Corporation:

Provided, however, that no shareholder, other than a shareholder referred to in clauses (a), (b) and (c) of sub-section (3) of section 4, shall be entitled to exercise voting rights in respect of any equity share held by him in excess of ten per cent. of the issued equity capital.

**Proxy voting.**

4G. In a general meeting referred to in clause (b) of sub-section (1) of section 4D and sub-section (1) of section 4E, the resolution for conversion or reduction of share capital shall be passed by shareholders entitled to vote, voting in person, or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of votes, if any, cast against the resolution by shareholders so entitled and voting.

**Transfer of share capital to Small Industries Bank.**

4H. On such date as the Central Government may, by notification in the Official Gazette, notify (hereinafter referred to as the notified date) all the shares of every Financial Corporation subscribed by the Development Bank and the amount outstanding in respect of loans in lieu of capital provided by the Development Bank as on the date immediately preceding the notified date, shall stand transferred to, and vested in, the Small Industries Bank, such transfer shall be at such rate and be paid in cash or such other manner as may be mutually agreed upon between the Development Bank and the Small Industries Bank."

**Substitution of new sections for sections 5 to 10.**

7. For sections 5 to 10 of the principal Act, the following sections shall be substituted, namely:—

**Transfer of shares.**

'5. (1) Save as otherwise provided in sub-section (2), the shares of the Financial Corporation shall be freely transferable.

(2) Nothing contained in sub-section (1) shall entitle the parties referred to in clauses (a), (b) and (c) of sub-section (3) of section 4 to transfer any of the shares

held by them in the Financial Corporation if such transfer will result in reducing the aggregate value of shares held by them to less than fifty-one per cent. of the issued equity capital of the Financial Corporation.

(3) The Board may refuse to register the transfer of any shares in the name of the transferee on any one or more of the following grounds, and on no other ground, namely:—

(a) the transfer of the shares is in contravention of the provisions of the Act or regulations made thereunder or any other law;

(b) the transfer of the shares, in the opinion of the Board, is prejudicial to the interests of the Financial Corporation or to the public interest;

(c) the transfer of shares is prohibited by an order of a court, tribunal or any other authority under any law for the time being in force.

(4) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of the Financial Corporation is lodged with it for the purpose of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds referred to in sub-section (3) but also,—

(a) if it has formed the opinion that such registration ought not to be so refused, effect such registration; and

(b) if it has formed the opinion that such registration ought to be refused on any of the grounds mentioned in sub-section (3), intimate the transferor and the transferee by notice in writing.

(5) An appeal against the order of refusal of the Board under sub-section (4) shall lie to the Central Government and the procedure for filing and hearing of such appeal shall be in accordance with the rules made by the Central Government in this behalf.

6. (1) On the commencement of the State Financial Corporations (Amendment) Act, 2000, every shareholder shall be given by the Financial Corporation an option to require the Financial Corporation to convert the shares held by him into shares of the same nominal value without the State Government guarantee and issue fresh share certificate or to pay the amount paid in respect of such shares not exceeding the face value of the shares held by him.

(2) The option referred to in sub-section (1) shall be given by the Financial Corporation to every existing shareholder before the expiry of three months from the commencement of the State Financial Corporations (Amendment) Act, 2000 and shall be exercised by the shareholder within three months from the date of receipt of such option.

(3) The option exercised under sub-section (2) shall be final and shall not be altered or rescinded after it has been exercised.

(4) If, a shareholder exercise option for receiving the payment within the stipulated time, the Financial Corporation shall, on surrender of the share certificate held by him, pay him the amount paid in respect of such shares not exceeding the face value thereof:

Provided that if any shareholder fails to exercise the option given to him under sub-section (1), within the time stipulated in sub-section (2), he shall be deemed to have exercised the first option.

(5) Nothing contained in sub-section (4) shall be deemed to result in reduction of the share capital and the Financial Corporation may, subject to the provisions of sub-section (3) of section 4, allot the shares surrendered by any shareholder, to any other person.

Conversion of  
shares guaran-  
teed by the State  
Government.

(6) The Financial Corporation shall keep at its head office a register, in one or more books, of shareholders and shall enter therein the following particulars so far as they may be available, namely:—

(i) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(ii) the date on which each person is so entered as a shareholder;

(iii) the date on which any person ceases to be a shareholder; and

(iv) such other particulars as may be prescribed:

Provided that nothing in this sub-section shall apply to the shares held with a depository under the Depositories Act, 1996.

22 of 1996.

(7) Notwithstanding anything contained in sub-section (6), it shall be lawful for the Financial Corporation to keep the register of shareholders in computer floppies or diskettes, compact disk or any other electronic form subject to such safeguards as may be prescribed.

(8) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of, or extract from, the register of shareholders, certified to be a true copy under the hand of an officer of the Financial Corporation authorised in this behalf, shall, in all legal proceedings, be admissible in evidence.

1 of 1872.

(9) The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 shall be deemed to be a register of shareholders for the purposes of this Act.

22 of 1996.

(10) Notwithstanding anything contained in sub-sections (6), (7) and (8), no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Financial Corporation:

Provided that nothing in this sub-section shall apply to a depository in respect of shares held by it as a registered owner on behalf of a beneficial owner.

*Explanation.*—For the purposes of sub-sections (6), (9) and this sub-section, the expressions “beneficial owner”, “depository” and “registered owner” shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.

22 of 1996.

(11) Notwithstanding anything contained in the Indian Trusts Act, 1882, the shares of the Financial Corporation shall be deemed to be included among the securities enumerated in section 20 of that Act.

2 of 1882.

7. (1) The Financial Corporation may issue and sell bonds and debentures for the purpose of increasing its working capital.

(2) The State Government may, on a request being made to it by the Financial Corporation, guarantee the bonds and debentures issued by the Financial Corporation 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 the Acts hereinafter mentioned in this sub-section, such of the bonds and debentures issued by the Financial Corporation as are guaranteed by the State Government as to the repayment of the principal and payment of interest and receipts issued by it for such of deposits as are guaranteed by the State Government as to the repayment of the principal and payment of interest shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882 and also to be approved securities for the purpose of the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882.

4 of 1938.

10 of 1949.

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

(a) repayable on demand or on the expiry of a fixed period not exceeding

ninety days from the date on which the money is so borrowed against the security of—

(i) stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

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

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

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

(5) The Financial Corporation may, for the purpose of carrying out its functions under this Act, borrow money from the State Government, any financial institution, scheduled bank, insurance company or any other person approved by the Board on such terms and conditions as may be agreed upon.

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

Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the aforesaid limit up to thirty times the amount of the paid-up share capital and reserve fund of the Financial Corporation.

8. (1) The Financial Corporation may accept from the State Government, or with the prior approval of the Reserve Bank, from a local authority or any other person deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as the Board thinks fit:

Provided that the total amount of such deposits shall not exceed twice the paid-up share capital of the Financial Corporation:

Provided further that the State Government may permit the Financial Corporation to accept deposits up to a higher limit not exceeding ten times the paid-up share capital of the Financial Corporation:

(2) Any deposit accepted under sub-section (1), other than a deposit from the State Government may, if so required by the Financial Corporation, be guaranteed by the State Government as to the repayment of the principal and payment of interest.

9. (1) The general superintendence, direction and management of affairs and business of the Financial Corporation shall vest in a Board of directors which may exercise all powers and do all such acts and things, as may be exercised or done by the Financial Corporation and are not by this Act expressly directed or required to be done

Deposits with  
Financial  
Corporation.

Management.

Board of  
directors.

by the Financial Corporation in general meeting.

(2) The Board may direct that any power exercisable by it under this Act shall also be exercisable in such cases and subject to such conditions, if any, as may be specified by it, by the chairman, managing director or the whole-time director.

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

(a) a director to be nominated as chairman under sub-section (1) of section 15;

(b) two directors nominated by the State Government of whom one director shall be a person who has special knowledge of or experience in small-scale industries:

Provided that in the case of a Joint Financial Corporation, the number of directors shall be such as the State Governments of the participating States may, by agreement among themselves, think fit to nominate each participating State Government nominating not more than two directors:

Provided further that in the case of a Joint Financial Corporation, the director, who shall have special knowledge of, or experience in, small-scale industries, shall be nominated by that participating State which, according to the terms of agreement between the participating States, is entitled to make such nomination.

(c) two directors nominated by the Small Industries Bank;

(d) two directors nominated in the prescribed manner by the parties mentioned in clause (c) of sub-section (3) of section 4;

(e) such number of directors elected, in the prescribed manner, by shareholders, other than those mentioned in clauses (a), (b) and (c) of sub-section (3) of section 4, whose names are entered on the register of shareholders of the Financial Corporation, ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(i) where the total amount of issued equity share capital held by such shareholders is ten per cent. or less of the total issued equity capital, two directors;

(ii) where the total amount of issued equity share capital held by such shareholders is more than ten per cent. but less than twenty-five per cent. of total issued equity capital, three directors;

(iii) where the total amount of issued equity share capital held by such shareholders is twenty-five per cent. or more of total issued equity capital, four directors; and

(iv) where the total amount of issued equity share capital held by equity shareholders referred to in this clause does not permit election of all the four directors, the Board shall co-opt such number of directors as is required to make up the said number who shall retire in equal number on the assumption of charge by the elected directors in the order of their co-option;

(f) a managing director appointed in accordance with the provisions of sub-section (1) of section 17 :

Provided that on the first constitution of the Board, the directors referred to in clause (d) shall be nominated by the State Government and directors so nominated shall, for the purpose of this Act, be deemed to be elected directors:

Provided further that all the directors of the Board first constituted, other than the managing director, shall retire at the end of the first year.'

**8.** Section 10A of the principal Act shall be omitted.

Omission of section 10A.

**9.** For sections 11 and 12 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 11 and 12.

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

Term of office and retirement of directors.

(2) Subject to the provisions of sub-section (1), a nominated director shall hold office for such term not exceeding three years and shall also be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years.

(3) An elected director other than a director deemed to be elected under the first proviso to clause (d) of section 10 shall hold office for three years and shall also be eligible for re-election:

Provided that no such director shall hold office continuously for a period exceeding six years.

**12.** No person shall be a director, if he—

Disqualifications for being a director.

(a) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force; or

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

(c) has been convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment of not less than six months and a period of five years has not elapsed from the date of expiry of the sentence; or

(d) is elected by the persons referred to in clause (d) of sub-section (3) of section 4 but not registered as shareholder in his own right of unencumbered shares of a nominal value of not less than ten thousand rupees in the Financial Corporation; or

(e) has not paid any call in respect of shares of the Financial Corporation held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call.”.

**10.** Section 13 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 13.

“(2) The shareholders, other than those mentioned in clauses (a), (b) and (c) of sub-section (3) of section 4, whose names are entered on the register of shareholders, may, after giving to the director a reasonable opportunity of being heard in the manner as may be prescribed, by resolution passed by majority of the votes of such shareholders holding in the aggregate not less than one-half of the total equity share capital held by all such shareholders, remove any director elected under clause (d) of section 10 and elect in his place another person to fill the vacancy so caused.”.

**11.** In section 14 of the principal Act, for sub-sections (1) and (1A), the following sub-section shall be substituted, namely:—

Amendment of section 14.

“(1) Any director elected under clause (d) of section 10 may, by giving notice in writing to the Chairman of the Board, resign from his office and on such resignation being accepted, shall be deemed to have vacated his office.”.

**12.** For section 15 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

Chairman of Board.

"15. (1) The Small Industries Bank shall, in consultation with the State Government nominate a director as a Chairman of the Board for such period not exceeding three years and on such terms and conditions as the Small Industries Bank may specify:

Provided that the Chairman shall not be a whole-time director unless he is also appointed to function as the managing director:

Provided further that the Chairman shall so long as he remains a director be eligible for re-appointment as Chairman.

(2) The Chairman shall preside over the meetings of the Board and the general meetings of the Financial Corporation."

**13. In section 17 of the principal Act,—**

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

"(1) The managing director shall—

(a) be appointed, in consultation with the Small Industries Bank, by the State Government;

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

(c) perform such duties as the Board, by regulations, entrust or delegate to him;

(d) hold office for such term not exceeding three years as the State Government may specify and shall be eligible for re-appointment;

(e) receive such salary and allowances and be subject to other terms and conditions of service as the Board may, with the previous approval of the State Government, determine;"

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

"(3) Notwithstanding anything contained in sub-section (1), the State Government, with prior consultation of the Small Industries Bank, shall have the right to terminate the term of office of the managing director at any time, before the expiry of the term specified under clause (d) of 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 managing director shall also have right to relinquish his office at any time before the expiry of term specified under clause (d) of sub-section (1) by giving to the State Government notice of not less than three months in writing."

**14. For section 18 of the principal Act, the following section shall be substituted, namely:—**

"18. The Board shall constitute an Executive Committee consisting of the chairman and managing director, the whole-time directors and such other directors as it may deem fit:

Provided that in the case of a Joint Financial Corporation, if the directors nominated under clause (b) of section 10 represent different State Governments then, all of them shall be members of the Executive Committee.

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

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

**15. In section 19 of the principal Act, sub-sections (3A) and (4) shall be omitted.**

Amendment of section 19.

**16. In section 23 of the principal Act, the proviso shall be omitted.**

Amendment of section 23.

## 17. In section 25 of the principal Act,—

Amendment of  
section 25.

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

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

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

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

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

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

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

(d) transferring from consideration any instruments relating to loans and advances granted by it to industrial concerns;

(e) acting as agent of the Central Government or the State Government or the Development Bank or the Small Industries Bank or the IFCI Limited formed and registered under the Companies Act, 1956, or any other financial institution notified in this behalf by the Central Government in respect of any matter connected with, or arising out of, the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern or relating to the business of the Development Bank, Small Industries Bank, IFCI Limited or financial institution;

(f) subscribing to, or purchasing of, the stock, shares, bonds or debentures of an industrial concern or any other concern;

(g) retaining as part of its assets any stock, shares, bonds or debentures which it may acquire by subscription or in fulfilment of its underwriting liabilities and disposing of the stock, shares, bonds or debentures so acquired;

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

Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the said limit of twenty years up to a further period of ten years:

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

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

*Explanation.*—In this clause, the expression "the amounts outstanding on such debentures or loans" shall mean the principal, interest and other charges payable on such debentures or loans as at the time when the amounts are sought to be converted into stock or shares;

- (i) accepting or discounting promissory notes and bills of exchange made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern;
- (j) undertaking research and surveys for evaluating or dealing with marketing or investments or undertaking and carrying on techno-economic studies or other activities in connection with the development of any industry;
- (k) providing technical and administrative assistance to any industrial concern or any person for the promotion, management or expansion of any industry;
- (l) planning and assisting in the promotion and development of industries;
- (m) providing consultancy and merchant banking services;
- (n) acting as the trustee for the holders of debentures or other securities;
- (o) leasing, sub-leasing or giving on hire or hire-purchase of industrial plant, equipment, machinery or any other asset;
- (p) factoring;
- (q) providing export related credit and services;
- (r) undertaking money market related activities;
- (s) setting up of mutual funds and undertaking asset management activity;
- (t) promoting, forming or conducting or assisting in the promotion, formation, or conduct of companies, subsidiaries, societies, trusts or such other associations of persons as it may deem fit;
- (u) opening or confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;
- (v) doing such other business as the Small Industries Bank may authorise, and or generally the doing of such acts and things as may be incidental to or consequential upon, the exercise of its powers or the discharge of its duties under this Act.

(2) The Financial Corporation may receive, in consideration of any of the services mentioned in sub-section (1), such commission, brokerage, interest, remuneration or fee as may be agreed upon.";

(b) in sub-section (3), for the words "Development Bank", the words "Small Industries Bank" shall be substituted.

**18.** After section 25A of the principal Act, the following section shall be inserted, namely:—

"25B. The Financial Corporation may receive gifts, grants, donations or benefactions from Government or any other source.".

Insertion of  
new section  
25B.

Gifts, grants,  
etc.

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

"26. On and from the commencement of the State Financial Corporations (Amendment) Act, 2000, the Financial Corporation shall not enter into any arrangements under clause (a), (d) or (h) of sub-section (1) of section 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangements together with the amount of the face value of the shares and stocks of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of underwriting agreements and the deferred payments guarantees is more than—

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

(ii) two hundred lakhs of rupees in any other case:

Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the limit under clause (i) or clause (ii) up to four times.".

**20.** In section 28 of the principal Act, in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

"(d) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserves exceeds ten crores of rupees or such higher amount not exceeding thirty crores of rupees as the State Government, on the recommendation of the Small Industries Bank, may, by notification in the Official Gazette, specify."

**21.** For section 34 of the principal Act, the following section shall be substituted, namely:—

"34. The Financial Corporation may invest its funds in accordance with applicable guidelines and prudential norms as may be prescribed and in such securities as the Board may decide from time to time."

**22.** In section 35 of the principal Act, in sub-section (2), the proviso shall be omitted.

**23.** For section 35A of the principal Act, the following section shall be substituted, namely:—

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

Provided that after the notified date this sub-section shall have effect as if for the words "the State Government, the Development Bank and the Small Industries Bank", the words "the State Government and the Small Industries Bank" have been substituted except as regards all dividends accruing in respect of any completed accounting period prior to the notified date.

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

Substitution  
of new  
section for  
section 26.

Limit of  
accommodation.

Amendment  
of section 28.

Substitution  
of new  
section for  
section 34.

Investment of  
funds.

Amendment  
of section 35.

Substitution  
of new  
section for  
section 35A.

Special  
reserve fund.

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

Amendment of  
section 36.

24. In section 36 of the principal Act, for sub-section (2) the following sub-sections shall be substituted, namely:—

"(2) The shareholders present at the annual general meeting shall be entitled to discuss and adopt—

(a) the balance-sheet and profit and loss account of the Financial Corporation made up to the date on which its accounts are closed and balanced;

(b) the report of working of the Financial Corporation for the period covered by the accounts;

(c) the auditor's report on the balance-sheet and accounts; and

(d) proposals for declaration of dividend and capitalisation of reserves.

(3) The shareholders present at an annual general meeting may also discuss any other matter to be transacted at such meetings in accordance with the provisions of this Act.".

Amendment of  
section 37.

25. In section 37 of the principal Act,—

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

"(1) The accounts of the Financial Corporation shall be audited by auditors duly qualified to act as the auditors under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Financial Corporation in general meeting of shareholders out of the panel of auditors approved by the Reserve Bank of India for such terms and on such remuneration as the Reserve Bank may fix.";

(b) in sub-section (6), the proviso shall be omitted.

Amendment of  
section 37A.

26. In section 37A of the principal Act, for the words "Development Bank", wherever they occur, the words "Small Industries Bank" shall be substituted.

1 of 1956.

Amendment of  
section 38.

27. In section 38 of the principal Act, for the words "Development Bank", wherever they occur, the words "Small Industries Bank" shall be substituted.

Amendment of  
section 39.

28. In section 39 of the principal Act,—

(a) in sub-section (1), for the words "Development Bank", the words "Small Industries Bank" shall be substituted;

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

"(2A) Nothing contained in sub-section (1) and sub-section (2) shall apply in a case where a State Government holds less than fifty-one per cent. of the equity shares in the Financial Corporation.

(2B) Notwithstanding the equity share holding of a Financial Corporation by a State Government, the State Government may advise the Financial Corporations on the matters of policy.".

Amendment of  
section 40.

29. In section 40 of the principal Act, in sub-section (2), in clause (b), for the words "State co-operative Bank or the Development Bank", the words "State co-operative Bank, the Small Industries Bank or the Development Bank" shall be substituted.

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

"**41B.(1)** Notwithstanding anything contained in any other law for the time being in force, where a nomination in respect of any deposits, bonds or other securities is made in the prescribed manner, the amount due on such deposits, bonds or securities shall, on the death of the depositor or holder thereof, vest in, and be payable to the nominee subject to any right, title or interest of any other person to such deposits, bonds or securities."

(2) Any payment by the Financial Corporation in accordance with the provisions of sub-section (1) shall constitute a full discharge to the Financial Corporation of its liability in respect of such deposits, bonds or securities.".

**31.** In section 43 of the principal Act, in the first proviso, the words and figure "section 6 or" shall be omitted.

**32.** In section 43B of the principal Act, sub-section (2) shall be omitted.

**33.** In section 46A of the principal Act, in sub-section (1), for the words "Development Bank", the words "Small Industries Bank" shall be substituted.

**34.** Section 47 of the principal Act shall be omitted.

**35.** In section 48 of the principal Act,—

(i) in sub-section (1), for the words "Development Bank", the words "Small Industries Bank" shall be substituted;

(ii) in sub-section (2),—

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

"(ca) the maintenance of register of shareholders, particulars to be entered in such register, the safeguards to be observed in the maintenance of register of shareholders on computer floppies or diskettes, compact disk or any other electronic form the inspection and closure of the register of shareholders and all other matters connected therewith under section 6;

(cb) the manner of nomination of directors under clause (d) of section 10;

(cc) the entrusting or delegation of duties to the managing director by the Board under clause (c) of sub-section (1) of section 17;

(cd) the functions of Executive Committee under sub-section (2) of section 18;

(ce) the guidelines and prudential norms in accordance with which investment may be made under section 34;

(cf) the manner in which nomination may be made under section 41B; and

(cg) the investments (whether by way of deposits in bank or otherwise) of the amounts which are not for the time being required for transaction of business.".

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

"(o) the form and manner in which the balance-sheet and the accounts of the Financial Corporation shall be prepared;

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

Insertion of new section 41B.

Nomination in respect of deposits, bonds, etc.

Amendment of section 43.

Amendment of section 43B.

Amendment of section 46A.

Omission of section 47.

Amendment of section 48.

Amendment of  
section 48A.

36. In section 48A of the principal Act, the words "Every rule made under section 47 and" shall be omitted.

Insertion of  
new section  
48B.

37. After section 48A of the principal Act, the following section shall be inserted, namely:—

Power to make  
rules.

"48B. (1) The Central Government may, by notification in the Official Gazette, 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 the procedure for filing and hearing of appeals under sub-section (5) of section 5.

(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 APPROPRIATION (No. 3) ACT, 2000

No. 40 OF 2000

[8th September, 2000.]

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 2000-2001.

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

1. This Act may be called the Appropriation (No. 3) Act, 2000.

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 two thousand five hundred thirty-six crore and sixty-six lakh rupees towards defraying the several charges which will come in the course of payment during the financial year 2000-2001 in respect of the services specified in column 2 of the Schedule.

Issue of  
Rs.2536.66,00,000  
out of the  
Consolidated  
Fund of India  
for the  
financial year  
2000-2001.

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)

No. of Vote	Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	Department of Agriculture and Cooperation .....	Revenue 1,00,000	..	Rs. 1,00,000
3	Department of Animal Husbandry and Dairying ..	Revenue 2,58,00,000	..	2,58,00,000
4	Department of Food Processing Industries .....	Revenue 10,94,00,000	..	10,94,00,000
6	Department of Fertilizers .....	Capital 150,00,00,000	..	150,00,00,000
8	Department of Commerce .....	Revenue 5,01,00,000	..	5,01,00,000
10	Department of Supply .....	Revenue ..	10,00,000	10,00,000
11	Department of Posts .....	Capital 9,78,00,000	..	9,78,00,000
13	Department of Telecom Services .....	Capital 1,00,000	..	1,00,000
25	Ministry of External Affairs .....	Revenue 1,00,000	..	1,00,000
40	Department of Consumer Affairs .....	Capital 3,00,00,000	..	3,00,00,000
45	Ministry of Home Affairs .....	Revenue 95,00,000	..	95,00,000
54	Department of Heavy Industry .....	Revenue 38,14,00,000	..	38,14,00,000
		Capital 302,71,00,000	..	302,71,00,000
58	Law and Justice .....	Revenue 150,00,00,000	..	150,00,00,000
63	Department of Mines .....	Capital 1,00,000	..	1,00,000
64	Ministry of Non-Conventional Energy Sources ..	Revenue 2,00,00,000	..	2,00,00,000
68	Ministry of Planning .....	Revenue 1,00,000	..	1,00,000
69	Ministry of Power .....	Revenue 1,00,000	..	1,00,000
		Capital 460,00,00,000	..	460,00,00,000
71	Department of Land Resources .....	Revenue 1,00,000	..	1,00,000
73	Department of Science and Technology .....	Capital 4,75,00,000	..	4,75,00,000
78	Ministry of Steel .....	Revenue 381,00,00,000	..	381,00,00,000
79	Department of Road Transport and Highways ...	Revenue 990,00,00,000	..	990,00,00,000
81	Ministry of Textiles .....	Capital 1,05,00,000	..	1,05,00,000
85	Public Works .....	Capital 9,02,00,000	..	9,02,00,000
87	Ministry of Urban Employment and Poverty Alleviation .....	Capital 4,00,00,000	..	4,00,00,000
90	Atomic Energy .....	Revenue ..	6,00,00,000	6,00,00,000
95	Rajya Sabha .....	Revenue 1,00,000	..	1,00,000
96	Lok Sabha .....	Revenue 5,55,00,000	..	5,55,00,000
		TOTAL 2530,56,00,000	6,10,00,000	2536,66,00,000

## THE APPROPRIATION (No. 4) ACT, 2000

No. 41 OF 2000

[8th September, 2000.]

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, 1998, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 4) Act, 2000.

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 crore seven lakhs, eleven thousand, one hundred and seventy-nine, 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 specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1998 in excess of the amounts granted for those services and for that year.

Issue of Rs.  
370,07,11179  
out of the  
Consolidated  
Fund of India  
to meet  
certain excess  
expenditure  
for the year  
ended on the  
31st March,  
1998.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1998.

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*Appropriation (No. 4)*

[ACT 41 OF 2000]

**THE SCHEDULE**  
*(See sections 2 and 3)*

1 No. of Vote	2 Services and purposes	3 Excess		
		Voted by Parliament	Charged on the Consolidated Fund	Total
14	Department of Telecommunication . . .	Rs. 356,41,02,812	Rs. ..	Rs. 356,41,02,812
47	Transfers to Union territory Governments . . . . .	10,000	..	10,000
80	Ports, Lighthouses and Shipping . . .	13,65,98,367	..	13,65,98,367
	Total	370,07,11,179	..	370,07,11,179

**THE APPROPRIATION (RAILWAYS) No. 3  
ACT, 2000**

**No. 42 OF 2000**

**[8th September, 2000.]**

**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, 1998 in excess of the amounts granted for those services and for that year.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

- 1. This Act may be called the Appropriation (Railways) No. 3 Act, 2000.**
- 2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred and sixty crores, thirty-three lakhs, seventy-eight thousand, four hundred and thirty-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, 1998, in excess of the amounts granted for those services and for that year.**
- 3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1998.**

**Short title.**

**Issue of Rs.  
160,33,78,433  
out of the  
Consolidated Fund  
of India to meet  
certain excess  
expenditure for  
the financial year  
ended on the 31st  
day of March,  
1998.**

**Appropriation.**

**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	General Superintendence and services on Railways .....	..	17,943	17,943
4	Repairs and Maintenance of Permanent Way and Works.....	..	3,91,493	3,91,493
8	Operating Expenses—Rolling Stock and Equipment.....	38,64,23,759	..	38,64,23,759
9	Operating Expenses—Traffic .....	..	69,81,968	69,81,968
10	Operating Expenses—Fuel .....	38,58,80,429	..	38,58,80,429
14	Appropriation to Funds .....	65,22,70,549	..	65,22,70,549
16	Assets—Acquisition, Construction and Replacement—			
	<u>Other Expenditure</u>			
	Railway Funds .....	17,14,12,292	..	17,14,12,292
	Total .....	159,59,87,029	73,91,404	160,33,78,433

## **THE APPROPRIATION (RAILWAYS) No. 4 ACT, 2000**

**No. 43 OF 2000**

**[8th September, 2000.]**

**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 2000-2001 for the purposes of Railways.**

**Be it enacted by Parliament in the Fifty-first Year of the Republic of India, as follows:—**

- 1. This Act may be called the Appropriation (Railways) No. 4 Act, 2000.**
- 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 thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2000-2001, in respect of the services relating to Railways specified in column 2 of the Schedule.**
- 3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.**

**Short title.**

**Issue of  
Rs. 20,000  
out of the  
Consolidated  
Fund of India  
for the financial  
year  
2000-2001.**

**Appropriation.**

## THE SCHEDULE

(See sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
16	Assets—Acquisition, Construction and Replacement— <i>Other Expenditure</i>			
	Capital .....	5,000	..	5,000
	Railway Funds .....	15,000	..	15,000
	<b>TOTAL .....</b>	<b>20,000</b>	<b>..</b>	<b>20,000</b>

THE MULTIMODAL TRANSPORTATION OF GOODS  
(AMENDMENT) ACT, 2000

No. 44 OF 2000

[5th December, 2000.]

An Act to amend the Multimodal Transportation of Goods Act, 1993.

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

1. This Act may be called the Multimodal Transportation of Goods (Amendment) Act, 2000. Short title.
2. In section 2 of the Multimodal Transportation of Goods Act, 1993 (hereinafter referred to as the principal Act),—Amendment of section 2.
  - (i) for clause (a), the following clause shall be substituted, namely:—

‘(a) “carrier” means a person who performs or undertakes to perform for hire, the carriage or part thereof, of goods by road, rail, inland waterways, sea or air;’;
  - (ii) for clause (i), the following clause shall be substituted, namely:—

‘(i) “goods” means any property including live animals, containers,

pallets or such other articles of transport or packaging supplied by the consignor, irrespective of whether such property is to be or is carried on or under the deck;';

(iii) in clause (j), for the words "road, rail", the words "road, air, rail" shall be substituted;

(iv) for clauses (k) and (l), the following clauses shall be substituted, namely:—

'(k) "multimodal transportation" means carriage of goods, by at least two different modes of transport under a multimodal transport contract, from the place of acceptance of the goods in India to a place of delivery of the goods outside India;

(l) "multimodal transport contract" means a contract under which a multimodal transport operator undertakes to perform or procure the performance of multimodal transportation against payment of freight;

(la) "multimodal transport document" means a negotiable or non-negotiable document evidencing a multimodal transport contract and which can be replaced by electronic data interchange messages permitted by applicable law;';

(v) in clause (m), in sub-clause (ii), for the words "not as an agent either of the consignor or of the carrier", the words "not as an agent either of the consignor, or consignee or of the carrier" shall be substituted;

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

'(r) "special drawing rights" means such units of accounts as are determined by the International Monetary Fund;

(s) "taking charge" means that the goods have been handed over to and accepted for carriage by the multimodal transport operator;'

### 3. In section 4 of the principal Act,—

(i) in sub-section (3), for clause (a), the following clause shall be substituted, namely:—

"(a) (i) that the applicant is a company, firm or proprietary concern, engaged either in the business of shipping, or freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediately preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949;

38 of 1949.

(ii) that if the applicant is a company, firm or proprietary concern other than a company, firm or proprietary concern, specified in sub-clause (i), the subscribed share capital of such company or the aggregate balance in the capital account of partners of the firm, or the capital of the proprietor is not less than fifty lakh rupees.";

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

"Provided further that any applicant who is not a resident of India and who is not engaged in the business of shipping shall not be granted registration unless he has established a place of business in India:

Provided also that in respect of any applicant who is not a resident of India, the turnover may be certified by any authority competent to certify the accounts of a company in that country.";

(iii) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

"(4) A certificate granted under sub-section (3) shall be valid for a period of three years and may be renewed from time to time for a further period of three years at a time.

(5) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by such amount of fees as may be notified by the Central Government:

Provided that such fees shall not be less than rupees ten thousand and shall not exceed rupees twenty thousand.

(6) The competent authority shall renew the registration certificate granted under sub-section (3) if the applicant continues to fulfil the conditions as laid down at the time of registration."

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

"(1) Any person aggrieved by, refusal of the competent authority to grant or renew registration under section 4 or by cancellation of registration under section 5, may prefer an appeal to the Central Government within such period as may be prescribed."

Amendment of  
section 6.

**5. In section 7 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—**

"Provided that the multimodal transport operator shall issue the multimodal transport document only after obtaining, and during the subsistence of a valid insurance cover."

Amendment of  
section 7.

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

Amendment of  
section 9.

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

"(a) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (including dangerous goods), the number of packages or units and the gross weight and quantity of the goods as declared by the consignor;"

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

"(h) the date or the period of delivery of the goods by the multimodal transport operator as expressly agreed upon between the consignor and the multimodal transport operator;"

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

"(k) freight payable by the consignor or the consignee, as the case may be, to be mentioned only if expressly agreed by both the consignor and the consignee;"

(iv) after clause (o), the following proviso shall be inserted, namely:—

"Provided that the absence of any of the particulars listed above shall not affect the legal character of the multimodal transport document."

Amendment of  
section 13.

7. In section 13 of the principal Act, in sub-section (1), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that the multimodal transport operator shall not be liable for loss or damage arising out of delay in delivery including any consequential loss or damage arising from such delay unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.".

Amendment of  
section 14.

8. In section 14 of the principal Act, in sub-section (1), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*Explanation.*—For the purpose of this sub-section, where a container, pallet or similar article is stuffed with more than one package or units, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.".

Amendment of  
section 15.

9. In section 15 of the principal Act, the following proviso shall be inserted, namely:—

"Provided that the multimodal transport operator shall not be liable for any loss, damage or delay in delivery due to a cause for which the carrier is exempted from liability in accordance with the applicable law.".

Insertion of  
new section  
20A.

10. After section 20, the following section shall be inserted, namely:—

Period of  
responsibility.

"20A. The responsibility of the multimodal transport operator for the goods under this Act shall cover the period from the time he has taken the goods in his charge to the time of their delivery.".

Amendment of  
Act 26 of 1925.

11. In the Indian Carriage of Goods by Sea Act, 1925, in Schedule, in Article I, for clause (c), the following clause shall be substituted, namely:—

(c) "Goods" includes any property including live animals as well as containers, pallets or similar articles of transport or packaging supplied by the consignor, irrespective of whether such property is to be or is carried on or under deck;".

## **THE COAL INDIA (REGULATION OF TRANSFERS AND VALIDATION) ACT, 2000**

No. 45 of 2000

[8th December, 2000.]

An Act to empower the Central Government to direct the transfer of the land, or of the rights in or over land or of the right, title and interest in relation to a coal mine, coking coal mine or coke oven plant, vested in the Coal India Limited or in a subsidiary company to any subsidiary company of Coal India Limited or any other subsidiary company and to validate certain transfers of such land or rights.

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

**1. This Act may be called the Coal India (Regulation of Transfers and Validation) Act, 2000.**

Short title.

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

Definitions.

1 of 1956.

(a) "Coal India" means the Coal India Limited, a Government company incorporated under the Companies Act, 1956 having its registered office at Calcutta and includes its predecessor Government company, namely, the Coal Mines Authority Limited;

(b) "subsidiary company" means the following subsidiary companies of Coal India, namely:—

- (i) the Central Coal Fields Limited, Ranchi and includes its predecessor Government company, namely, the National Coal Development Corporation Limited, Ranchi;
- (ii) the Bharat Coking Coal Limited, Dhanbad;
- (iii) the Western Coal Fields Limited, Nagpur;
- (iv) the Eastern Coal Fields Limited, Sanctoria;
- (v) the Central Mine Planning and Design Institute Limited, Ranchi;
- (vi) the South-Eastern Coal Fields Limited, Bilaspur;
- (vii) the Northern Coal Fields Limited, Singrauli;
- (viii) the Mahanadi Coal Fields Limited, Sambalpur.

and includes such other subsidiary company of Coal India as may be incorporated under the Companies Act, 1956 from time to time;

(c) words and expressions used herein and not defined but defined in the Coking Coal Mines (Nationalisation) Act, 1972 or the Coal Mines (Nationalisation) Act, 1973, shall have the meanings, respectively, assigned to them in those Acts.

1 of 1956.

36 of 1972.  
26 of 1973.

**Power of  
Central  
Government  
to direct  
transfer of  
land, rights,  
title or  
interest.**

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government may, if it is satisfied that a subsidiary company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification in the Official Gazette, that the land or rights in or over such land or the right, title and interest in relation to a coal mine, coking coal mine or a coke oven plant vested in the Coal India shall, instead of continuing to vest in the Coal India, vest in that subsidiary company or, where such land or right, title or interest vests in a subsidiary company, in another subsidiary company.

(2) Where the land or rights in or over such land or the right, title and interest in relation to a coal mine, coking coal mine or a coke oven plant vest in a subsidiary company under sub-section (1), such subsidiary company shall, on and from the date of such vesting, be deemed to have become the lessee in relation to such coal mine or coking coal mine as if a fresh mining lease in relation to such coal mine or coking coal mine had been granted to it under the Mineral Concession Rules, 1960 made under section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 for the maximum period for which such lease could have been granted under those rules, and all the rights and liabilities of Coal India or, as the case may be, the subsidiary company in relation to such coal mine or coking coal mine shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of subsidiary company first-mentioned.

67 of 1957.

**Validation of  
certain  
transfers.**

4. A subsidiary company which was operating, or was in control of, any coal mine, coking coal mine, or coke oven plant which was vested in the Coal India or any other subsidiary company immediately before the commencement of this Act, shall be deemed to have been vested with the land or rights in or over such land or the right, title and interest in relation to such coal mine, coking coal mine or coke oven plant and such vesting shall be deemed to have been valid and effective at all material times as if a direction had been made by the Central Government under sub-section (1) of section 3 and accordingly no suit or other proceeding shall be instituted, maintained or continued in any court on the ground that such subsidiary company was not competent to operate or control such coal mine, coking coal mine or coke oven plant.

**THE WORKMEN'S COMPENSATION (AMENDMENT)  
ACT, 2000**

**No. 46 OF 2000**

**[8th December, 2000.]**

**An Act further to amend the Workmen's Compensation Act, 1923.**

**Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**8 of 1923.**

- 1. This Act may be called the Workmen's Compensation (Amendment) Act, 2000.**
- 2. In the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), in clause (n), the following brackets and words shall be omitted, namely:—**

**Short title.**

**Amendment of  
section 2.**

**"(other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business)".**

- 3. In section 4 of the principal Act,—**

**Amendment of  
section 4.**

- (a) in sub-section (1),—**

**(i) in clause (a), for the words "fifty thousand rupees", the words "eighty thousand rupees" shall be substituted;**

**(ii) in clause (b), for the words "sixty thousand rupees", the words "ninety**

thousand rupees" shall be substituted;

(iii) in *Explanation II*, occurring after clause (b) and before clause (c), for the words "two thousand rupees" occurring at both the places, the words "four thousand rupees" shall respectively be substituted;

(b) in sub-section (4), for the words "one thousand rupees", the words "two thousand and five hundred rupees" shall be substituted.

Amendment of  
section 4A.

4. In section 4A of the principal Act, for sub-section (3A), the following sub-section shall be substituted, namely:—

"(3A) The interest and the penalty payable under sub-section (3) shall be paid to the workman or his dependant, as the case may be.".

**THE PASSPORT (ENTRY INTO INDIA) AMENDMENT  
ACT, 2000**

No. 47 OF 2000

[8th December, 2000.]

An Act further to amend the Passport (Entry into India) Act, 1920.

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

34 of 1920.

1. This Act may be called the Passport (Entry into India) Amendment Act, 2000.  
Short title.

2. In section 3 of the Passport (Entry into India) Act, 1920 (hereinafter referred to as the principal Act), in sub-section (3), for the words “punishable with imprisonment for a term which may extend to three months, or with fine, or with both”, the words “punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both” shall be substituted.  
Amendment of section 3.

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

“3A. Whoever having been convicted of an offence under any rule or order made under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the later offence.”  
Punishment for subsequent offences.

5 of 1898.  
2 of 1974.

4. In section 4 of the principal Act, in sub-section (2), for the words and figures “section 61 of the Code of Criminal Procedure, 1898,”, the words and figures “section 57 of the Code of Criminal Procedure, 1973,” shall be substituted.  
Amendment of section 4.

## THE FORFEITURE (REPEAL) ACT, 2000

No. 48 OF 2000

[8th December, 2000.]

### An Act to repeal the Forfeiture Act, 1859.

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

Short title.

1. This Act may be called the Forfeiture (Repeal) Act, 2000.

Repeal of Act  
9 of 1859.

2. The Forfeiture Act, 1859 is hereby repealed.

## **THE PROTECTION OF HUMAN RIGHTS (AMENDMENT) ACT, 2000**

**No. 49 OF 2000**

**[11th December, 2000.]**

**An Act further to amend the Protection of Human Rights Act, 1993.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**1. This Act may be called the Protection of Human Rights (Amendment) Act, 2000.**

**Short title.**

**2. After section 40 of the Protection of Human Rights Act, 1993, the following section shall be inserted, namely:—**

**Amendment  
of Act 10 of  
1994.**

**"40A. The power to make rules under clause (b) of sub-section (2) of section 40 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable."**

**Power to  
make rules  
retrospectively.**

**THE PUNJAB MUNICIPAL CORPORATION LAW (EXTENSION TO  
CHANDIGARH) AMENDMENT ACT, 2000**

**No. 50 OF 2000**

*[11th December, 2000.]*

**An Act to amend the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**Short title.**

**1. This Act may be called the Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Act, 2000.**

**Amendment  
of Act 45 of  
1994.**

**2. In the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, in Part II of the Schedule, in section 4, in sub-section (3),—**

**(a) in clause (ii), for the words "municipal administration", the words "municipal administration; and" shall be substituted;**

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

**"(iii) the member of the House of the People representing the constituency which comprises wholly or partly, the municipal area, with the right to vote.".**

## THE AIRCRAFT (AMENDMENT) ACT, 2000

No. 51 OF 2000

[11th December, 2000.]

An Act further to amend the Aircraft Act, 1934.

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

1. (1) This Act may be called the Aircraft (Amendment) Act, 2000.

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 11A of the Aircraft Act, 1934, for the words "with fine which may extend to one thousand rupees", the words "with fine which may extend to ten lakh rupees" shall be substituted.

Amendment of  
section 11A of  
Act 22 of 1934.

\* 1-1-2004 : Vide notification No. S.O. 7480, dt. 19-12-2003

## **THE IMMIGRATION (CARRIERS' LIABILITY) ACT, 2000**

**No. 52 OF 2000**

**[11th December, 2000.]**

**An Act to make the carriers liable in respect of passengers brought by them into India in contravention of the provisions of the Passport (Entry into India) Act, 1920 and the rules made thereunder and matters connected therewith.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**Short title  
and extent.**

**1. (1) This Act may be called the Immigration (Carriers' Liability) Act, 2000.**

**(2) It extends to the whole of India.**

**Definitions.**

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

**(a) "carrier" means a person who is engaged in the business of transporting passengers by water or air and includes any association of persons, whether incorporated or not, by whom the aircraft or the ship is owned or chartered;**

**(b) "competent authority" means the civil authority appointed under sub-paragraph (2) of paragraph 2 of the Foreigners Order, 1948 made under the Foreigners Act, 1946 or any other officer notified by the Central Government in this behalf;**

**31 of 1946.**

31 of 1946.  
34 of 1920.

34 of 1920.

(c) "prescribed" means prescribed by rules made under this Act.

(2) Words and expressions not defined in this Act but defined in the Foreigners Act, 1946 or the Passport (Entry into India) Act, 1920 shall have the meanings respectively assigned to them in those Acts.

3. Where the competent authority is of the opinion that any carrier has brought a person in contravention of the provisions of the Passport (Entry into India) Act, 1920 and rules made thereunder into India, he may by order impose a penalty of rupees one lakh on such carrier:

Provided that no order shall be passed without giving the carrier an opportunity of being heard in the matter.

4. (1) An appeal shall lie against the order made under section 3 of this Act to the Joint Secretary to the Government of India in the Ministry of Home Affairs authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within thirty days from the date of the order appealed against:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of thirty days, permit the appellant to prefer the appeal within a further period of thirty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the order appealed against.

(4) Every appeal shall be preferred on payment of such fees as may be prescribed.

5. Where any penalty imposed under this Act is not paid, the competent authority may recover the penalty so payable by seizing, detaining or selling—

(a) the aircraft or the ship; or

(b) any goods on the ship or aircraft, belonging to the carrier.

6. No suit, prosecution or other legal proceeding shall lie against the Central Government or the competent authority or any officer of the Central Government or any other person exercising any powers or discharging any functions or performing any duty under this Act for anything in good faith done or intended to be done under this Act or any rule made thereunder.

7. The provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the Registration of Foreigners Act, 1939, the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946 or the rules or orders made thereunder.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(a) the fees which shall be paid for appeals under sub-section (4) of section 4;

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

Liability of carriers for passengers brought into India.

Appeals.

Recovery of penalty due to Government.

Bar of legal proceedings.

Application of Acts 16 of 1939, 34 of 1920 and 31 of 1946 not barred.

Power to make rules.

Rules to be laid  
before  
Parliament.

9. 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.

Power to  
remove  
difficulties.

10. (1) 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:

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

(2) Every order under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

# THE COMPANIES (AMENDMENT) ACT, 2000

No. 53 OF 2000

[13th December, 2000.]

## An Act further to amend the Companies Act, 1956.

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

1. (1) This Act may be called the Companies (Amendment) Act, 2000.

Short title  
and commence-  
ment.

(2) The provisions of this Act, other than sections 7 and 80, shall come into force at once and sections 7 and 80 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

1 of 1956.

2. In section 2 of the Companies Act, 1956 (hereinafter referred to as the principal Act),—

Amendment of  
section 2.

(a) clause (1) shall be renumbered as clause (1A) thereof and before the clause as so renumbered, the following clause shall be inserted, namely:—

'(1) "abridged prospectus" means a memorandum containing such salient features of a prospectus as may be prescribed;';

(b) clauses (3) and (4) shall be omitted;

(c) after clause (12), the following clauses shall be inserted, namely:—

22 of 1996.

(12A) "Depository" has the same meaning as in the Depositories Act, 1996;

42 of 1956.

(12B) "derivative" has the same meaning as in clause (aa) of section 2 of the Securities Contracts (Regulation) Act, 1956;'

\* 1.3.2001: Vide notification no. S.O. 176 (E) dt. 27.2.2001 (in 70 s.7)  
\* 15.6.2001: Vide notification no. S.O. 523 (E) dt. 15.6.2001 (in 70 sec.80)

(d) after clause (14), the following clause shall be inserted, namely:—

‘(14A) “dividend” includes any interim dividend;’;

(e) after clause (15), the following clause shall be inserted, namely:—

‘(15A) “employees stock option” means the option given to the whole-time directors, officers or employees of a company, which gives such directors, officers or employees the benefit or right to purchase or subscribe at a future date, the securities offered by the company at a pre-determined price;’;

(f) after clause (19), the following clauses shall be inserted, namely:—

‘(19A) “hybrid” means any security which has the character of more than one type of security, including their derivatives;

‘(19B) “information memorandum” means a process undertaken prior to the filing of a prospectus by which a demand for the securities proposed to be issued by a company is elicited, and the price and the terms of issue for such securities is assessed, by means of a notice, circular, advertisement or document;’;

(g) after clause (23), the following clause shall be inserted, namely:—

‘(23A) “listed public companies” means a public company which has any of its securities listed in any recognised stock exchange;’;

(h) clause (25) shall be omitted;

(i) for clause (30), the following clause shall be substituted, namely:—

‘(30) “officer” includes any director, manager or secretary or any person in accordance with whose directions or instructions the Board of directors or any one or more of the directors is or are accustomed to act;’;

(j) after clause (31), the following clause shall be inserted, namely:—

‘(31A) “option in securities” has the same meaning as in clause (d) of section 2 of the Securities Contracts (Regulation) Act, 1956;’;

42 of 1956.

(k) clause (44) shall be omitted.

(l) after clause (45A), the following clause shall be inserted, namely:—

‘(45AA) “securities” means securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, and includes hybrids;’;

42 of 1956.

(m) after clause (46), the following clause shall be inserted, namely:—

‘(46A) “share with differential rights” means a share that is issued with differential rights in accordance with the provisions of section 86;’.

Amendment of  
section 3

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (iii),—

(A) in the opening portion, for the words “means a company which, by its articles,—”, the words “means a company which has a minimum paid-up capital of one lakh rupees or such higher paid-up capital as may be prescribed, and by its articles,—” shall be substituted;

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

“(d) prohibits any invitation or acceptance of deposits from persons other than its members, directors or their relatives.”;

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

(iv) “public company” means a company which—

(a) is not a private company;

(b) has a minimum paid-up capital of five lakh rupees or such higher paid-up capital, as may be prescribed;

(c) is a private company which is a subsidiary of a company which is not a private company;’;

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

(3) Every private company, existing on the commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than one lakh rupees shall, within a period of two years from such commencement, enhance its paid-up capital to one lakh rupees.

(4) Every public company, existing on the commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than five lakh rupees shall, within a period of two years from such commencement, enhance its paid-up capital to five lakh rupees.

(5) Where a private company or a public company fails to enhance its paid-up capital in the manner specified in sub-section (3) or sub-section (4), such company shall be deemed to be a defunct company within the meaning of section 560 and its name shall be struck off from the register by the Registrar.

(6) A company registered under section 25 before or after the commencement of the Companies (Amendment) Act, 2000, shall not be required to have minimum paid-up capital specified in this section.”.

4. In section 4 of the principal Act, in sub-section (2), in clause (b), the words “, managing agent, secretaries and treasurers” shall be omitted.

Amendment of section 4.

5. In section 11 of the principal Act, in sub-section (5), for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of section 11.

6. In section 16 of the principal Act, in sub-section (3), the words “, managing agent, secretaries and treasurers” shall be omitted.

Amendment of section 16.

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

“17A. (1) No company shall change the place of its registered office from one place to another within a State unless such change is confirmed by the Regional Director.

Insertion of new section 17A.

(2) The company shall make an application in the prescribed form to the Regional Director for confirmation under sub-section (1).

Change of registered office within a State.

(3) The confirmation referred to in sub-section (1) shall be communicated to the company within four weeks from the date of receipt of application for such change:

*Explanation.*—For the removal of doubts, it is hereby declared that the provisions of this section shall apply only to the companies which change the registered office from the jurisdiction of one Registrar of Companies to the jurisdiction of another Registrar of Companies within the same State.

(4) The company shall file, with the Registrar a certified copy of the confirmation by the Regional Director for change of its registered office under this section, within two months from the date of confirmation, together with a printed copy of the memorandum as altered and the Registrar shall register the same and certify the registration under his hand within one month from the date of filing of such document.

Amendment of  
section 22.

(5) The certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and confirmation have been complied with and henceforth the memorandum as altered shall be the memorandum of the company.”.

Amendment of  
section 25.

8. In section 22 of the principal Act, in sub-section (2), for the words “one hundred rupees”, the words “one thousand rupees” shall be substituted.

Amendment of  
section 39.

9. In section 25 of the principal Act, in sub-section (10), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment of  
section 40.

10. In section 39 of the principal Act,—

- (a) in sub-section (1), clause (c) shall be omitted;
- (b) in sub-section (2), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of  
section 43A.

11. In section 40 of the principal Act,—

- (a) in sub-section (1), the words, brackets, letter and figures “in the agreement referred to in clause (c) of sub-section (1) of section 39 or in any other agreement” shall be omitted;
- (b) in sub-section (2), for the words “ten rupees”, the words “one hundred rupees” shall be substituted.

Amendment of  
section 44.

12. In section 43A of the principal Act,—

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

‘(2A) Where a public company referred to in sub-section (2) becomes a private company on or after the commencement of the Companies (Amendment) Act, 2000, such company shall inform the Registrar that it has become a private company and thereupon the Registrar shall substitute the words “private company” for the words “public company” in the name of the company upon the register and shall also make the necessary alterations in the certificate of incorporation issued to the company and in its memorandum of association within four weeks from the date of application made by the company.’;

- (b) after sub-section (10), the following sub-section shall be inserted, namely:—

“(11) Nothing contained in this section, except sub-section (2A), shall apply on and after the commencement of the Companies (Amendment) Act, 2000.”.

Amendment of  
section 49.

13. In section 44 of the principal Act,—

- (a) in sub-section (3), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted;

- (b) in sub-section (4), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment of  
section 54.

14. In section 49 of the principal Act, in sub-section (9), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Insertion of  
new section  
55A.

15. In section 54 of the principal Act, the words “the managing agent, the secretaries and treasurers,” shall be omitted.

Powers of  
Securities and  
Exchange  
Board of India.

16. After section 55 of the principal Act, the following section shall be inserted, namely:—

“55A. The provisions contained in sections 55 to 58, 59 to 81 (including sections 68A, 77A and 80A), 108, 109, 110, 112, 113, 116, 117, 118, 119, 120, 121, 122, 206, 206A and 207, so far as they relate to issue and transfer of securities and non-payment of dividend shall,—

- (a) in case of listed public companies;
- (b) in case of those public companies which intend to get their securities listed on any recognized stock exchange in India,  
be administered by the Securities and Exchange Board of India; and
- (c) in any other case, be administered by the Central Government.

*Explanation.*—For the removal of doubts, it is hereby declared that all powers relating to all other matters including the matters relating to prospectus, statement in lieu of prospectus, return of allotment, issue of shares and redemption of irredeemable preference shares shall be exercised by the Central Government, the Company Law Board or the Registrar of Companies, as the case may be.”

**17.** In section 56 of the principal Act, in sub-section (3), after the second proviso, for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment  
of section 56.

**18.** In section 58A of the principal Act,—

Amendment  
of section 58A.

(a) in sub-section (6), in clause (a), in sub-clause (ii),—

(i) for the words “one lakh rupees”, the words “ten lakh rupees” shall be substituted;

(ii) for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(b) in sub-section (10), for the words “not less than rupees fifty”, the words “not less than rupees five hundred” shall be substituted.

**19.** After section 58A of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
58AA and  
58AAA.

**‘58AA.** (1) Every company, which accepts deposits from small depositors, shall intimate to the Company Law Board any default made by it in repayment of any such deposits or part thereof or any interest thereupon.

Small  
depositors.

(2) The intimation under sub-section (1) shall—

(a) be given within sixty days from the date of default;

(b) include particulars in respect of the names and addresses of each small depositor, the principal sum of deposits due to them and interest accrued thereupon.

*Explanation.*—For the removal of doubts, it is hereby declared that the intimation under this section shall be given on monthly basis.

(3) Where a company has made a default in repayment of any deposit or part thereof or any interest thereupon to a small depositor, the Company Law Board, on receipt of intimation under sub-section (1) shall,—

(a) exercise, on its own motion, powers conferred upon it by sub-section (9) of section 58A;

(b) pass an appropriate order within a period of thirty days from the date of receipt of intimation under sub-section (1);

Provided that the Board may pass order after expiry of the period of thirty days, after giving the small depositors an opportunity of being heard:

Provided further that it shall not be necessary for a small depositor to be present at the hearing of the proceeding under this sub-section.

(4) No company shall, at any time, accept further deposits from small depositors, unless each small depositor, whose deposit has matured, had been paid the amount of the deposit and the interest accrued thereupon:

Provided that nothing contained in this sub-section shall apply to—

(a) any deposit which has been renewed by the small depositor voluntarily; or

(b) any deposit, whose repayment has become impracticable due to the death of the small depositor or whose repayment has been stayed by a competent court or authority.

(5) Every company, which has on any occasion made a default in the repayment of a deposit or part thereof or any interest thereupon to a small depositor, shall state, in every future advertisement and application form inviting deposits from the public, the total number of small depositors and amount due to them in respect of which such default has been made.

(6) Where any interest accrued on deposits of the small depositors has been waived, the fact of such waiver shall be mentioned by the company in every advertisement and application form inviting deposits issued after such waiver.

(7) Where a company had accepted deposits from small depositors and subsequent to such acceptance of deposits, obtains funds by taking a loan for the purposes of its working capital from any bank, it shall first utilise the funds so obtained for the repayment of any deposit or any part thereof or any interest thereupon to the small depositor before applying such funds for any other purpose.

(8) Every application form, issued by a company to a small depositor for accepting deposits from him, shall contain a statement to the effect that the applicant had been apprised of—

(a) every past default by the company in the repayment of deposit or interest thereon, if any, such default has occurred; and

(b) the waiver of interest under sub-section (6), if any, and reasons therefor.

(9) Whoever knowingly fails to comply with the provisions of this section or comply with any order of the Company Law Board shall be punishable with imprisonment which may extend to three years and shall also be liable to fine for not less than five hundred rupees for every day during which such non-compliance continues.

(10) If a company or any other person contravenes any provision of this section, every person, who at the time the contravention was committed, was a director 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.

(11) The provisions of section 58A shall, as far as may be, apply to the deposits made by a small depositor under this section.

*Explanation.*—For the purposes of this section, “a small depositor” means a depositor who has deposited in a financial year a sum not exceeding twenty thousand rupees in a company and includes his successors, nominees and legal representatives.

58AAA. (1) Notwithstanding anything contained in sections 621 and 624, every offence connected with or arising out of acceptance of deposits under section 58A or section 58AA shall be cognizable offence under the Code of Criminal Procedure, 1973.

(2) No court shall take cognizance of any offence under sub-section (1) except on a complaint made by the Central Government or any officer authorised by it in this behalf.

Default in  
acceptance or  
refund of  
deposits to be  
cognizable.

Amendment of  
section 59.

Amendment of  
section 60.

20. In section 59 of the principal Act, in sub-section (1), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

21. In section 60 of the principal Act, in sub-section (5), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

**22.** After section 60 of the principal Act, the following sections shall be inserted, namely:—

In insertion of new  
sections 60A  
and 60B.

'60A. (1) Any public financial institution, public sector bank or scheduled bank whose main object is financing shall file a shelf prospectus.

(2) A company filing a shelf prospectus with the Registrar shall not be required to file prospectus afresh at every stage of offer of securities by it within a period of validity of such shelf prospectus.

(3) A company filing a shelf prospectus shall be required to file an information memorandum on all material facts relating to new charges created, changes in the financial position as have occurred between the first offer of securities, previous offer of securities and the succeeding offer of securities within such time as may be prescribed by the Central Government, prior to making of a second or subsequent offer of securities under the shelf prospectus.

(4) An information memorandum shall be issued to the public along with shelf prospectus filed at the stage of the first offer of securities and such prospectus shall be valid for a period of one year from the date of opening of the first issue of securities under that prospectus:

Provided that where an update of information memorandum is filed every time an offer of securities is made, such memorandum together with the shelf prospectus shall constitute the prospectus.

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

(a) "financing" means making loans to, or subscribing in the capital of, a private industrial enterprise engaged in infrastructural financing or such other company as the Central Government may notify in this behalf;

(b) "shelf prospectus" means a prospectus issued by any financial institution or bank for one or more issues of the securities or class of securities specified in that prospectus.

60B. (1) A public company making an issue of securities may circulate information memorandum to the public prior to filing of a prospectus.

(2) A company inviting subscription by an information memorandum shall be bound to file a prospectus prior to the opening of the subscription lists and the offer as a redherring prospectus, at least three days before the opening of the offer.

(3) The information memorandum and redherring prospectus shall carry same obligations as are applicable in the case of a prospectus.

(4) Any variation between the information memorandum and the redherring prospectus shall be highlighted as variations by the issuing company.

*Explanation.*—For the purposes of sub-sections (2), (3) and (4), "redherring prospectus" means a prospectus which does not have complete particulars on the price of the securities offered and the quantum of securities offered.

(5) Every variation as made and highlighted in accordance with sub-section (4) above shall be individually intimated to the persons invited to subscribe to the issue of securities.

(6) In the event of the issuing company or the underwriters to the issue have invited or received advance subscription by way of cash or post-dated cheques or stock-invest, the company or such underwriters or bankers to the issue shall not encash such subscription moneys or post-dated cheques or stock-invest before the date of opening of the issue, without having individually intimated the prospective subscribers of the variation and without having offered an opportunity to such prospective subscribers to withdraw their application and cancel their post-dated cheques or stock-invest or return of subscription paid.

Shelf  
prospectus.

Information  
memorandum.

(7) The applicant or proposed subscriber shall exercise his right to withdraw from the application on any intimation of variation within seven days from the date of such intimation and shall indicate such withdrawal in writing to the company and the underwriters.

(8) Any application for subscription which is acted upon by the company or underwriters or bankers to the issue without having given enough information of any variations, or the particulars of withdrawing the offer or opportunity for cancelling the post-dated cheques or stock-invest or stop payments for such payments shall be void and the applicants shall be entitled to receive a refund or return of its post-dated cheques or stock-invest or subscription moneys or cancellation of its application, as if the said application had never been made and the applicants are entitled to receive back their original application and interest at the rate of fifteen per cent. from the date of encashment till payment of realisation.

(9) Upon the closing of the offer of securities, a final prospectus stating therein the total capital raised, whether by way of debt or share capital and the closing price of the securities and any other details as were not complete in the redherring prospectus shall be filed in a case of a listed public company with the Securities and Exchange Board of India and Registrar, and in any other case with the Registrar only.'

Amendment of  
section 63.

23. In section 63 of the principal Act, in sub-section (1), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of  
section 67.

24. In section 67 of the principal Act,—

(a) in sub-section (3), the following provisos shall be inserted, namely:—

"Provided that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:

Provided further that nothing contained in the first proviso shall apply to the non-banking financial companies or public financial institutions specified in section 4A of the Companies Act, 1956.";

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

"(3A) Notwithstanding anything contained in sub-section (3), the Securities and Exchange Board of India shall, in consultation with the Reserve Bank of India, by notification in the Official Gazette, specify the guidelines in respect of offer or invitation made to the public by a public financial institution specified under section 4A or non-banking financial company referred to in clause (f) of section 45-I of the Reserve Bank of India Act, 1934."

1 of 1956.

2 of 1934.

Amendment of  
section 68.

25. In section 68 of the principal Act, for the words "ten thousand rupees", the words "one lakh rupees" shall be substituted.

Insertion of  
new section  
68B.

26. After section 68A of the principal Act, the following section shall be inserted, namely:—

"68B. Notwithstanding anything contained in any other provisions of this Act, every listed public company, making initial public offer of any security for a sum of rupees ten crores or more, shall issue the same only in dematerialised form by complying with the requisite provisions of the Depositories Act, 1996 and the regulations made thereunder."

22 of 1996.

Amendment of  
section 69.

27. In section 69 of the principal Act, in sub-section (4), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of  
section 70.

28. In section 70 of the principal Act,—

(a) in sub-section (4), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (5), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

**29.** In section 72 of the principal Act, in sub-section (3), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of  
section 72.

**30.** In section 73 of the principal Act, in sub-sections (2B) and (3), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment  
of section 73.

**31.** In section 75 of the principal Act, in sub-section (4),—

Amendment  
of section 75.

(a) for the words "five hundred rupees", the words "five thousand rupees" shall be substituted;

(b) in the proviso, for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

**32.** In section 76 of the principal Act, in sub-section (5), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment of  
section 76.

**33.** In section 77 of the principal Act,—

Amendment of  
section 77.

(a) in sub-section (2), in the proviso, in clause (c), the words "managing agents, secretaries and treasurers" shall be omitted;

(b) in sub-section (4), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

**34.** In section 79 of the principal Act, in sub-section (4), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of  
section 79.

**35.** In section 80 of the principal Act, in sub-section (6), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of  
section 80.

**36.** In section 80A of the principal Act, in sub-section (3), in clause (a), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of  
section 80A.

**37.** In section 84 of the principal Act, in sub-section (3), for the words "ten thousand rupees", the words "one lakh rupees" shall be substituted.

Amendment of  
section 84.

**38.** For section 86 of the principal Act, the following section shall be substituted, namely:—

"**86.** The share capital of a company limited by shares shall be of two kinds only, namely:—

(a) equity share capital—

(i) with voting rights; or

(ii) with differential rights as to dividend, voting or otherwise in accordance with such rules and subject to such conditions as may be prescribed;

(b) preference share capital."

**39.** Section 88 of the principal Act shall be omitted.

Omission of  
section 88.

**40.** In section 89 of the principal Act,—

Amendment of  
section 89.

(a) in sub-section (2),—

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

"(a) any resolution relating to the appointment or reappointment of a director or to any variation in the terms of an agreement between the company and a managing or whole-time director thereof;"

Amendment of section 95.

Amendment of section 97.

Amendment of section 107.

Amendment of section 108-I.

Amendment of section 111.

Amendment of section 113.

Amendment of section 115.

Insertion of new sections 117A, 117B and 117C.

Debenture trust deed.

Appointment of debenture trustees and duties of debenture trustees.

(ii) clause (c) shall be omitted;

(b) in sub-section (3), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

41. In section 95 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

42. In section 97 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

43. In section 107 of the principal Act, in sub-section (5), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

44. In section 108-I of the principal Act, for the words "five thousand rupees", wherever they occur, the words "fifty thousand rupees" shall be substituted.

45. In section 111 of the principal Act,—

(a) in sub-section (9),—

(i) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(ii) for the words "one hundred rupees", the words "one thousand rupees" shall be substituted;

(b) in sub-section (12), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

46. In section 113 of the principal Act, in sub-section (2), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

47. In section 115 of the principal Act, in sub-section (6), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

48. After section 117 of the principal Act, the following sections shall be inserted, namely:—

"117A. (1) A trust deed for securing any issue of debentures shall be in such form and shall be executed with in such period as may be prescribed.

(2) A copy of the trust deed shall be open to inspection to any member or debenture holder of the company and he shall also be entitled to obtain copies of such trust deed on payment of such sum as may be prescribed.

(3) If a copy of the trust deed is not made available for inspection or is not given to any member or debenture holder, the company and every officer of the company who is in a default, shall be punishable, for each offence, with fine which may extend to five hundred rupees for every day during which the offence continues.

117B. (1) No company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless the company has, before such issue, appointed one or more debenture trustees for such debentures and the company has, on the face of the prospectus or the letter of offer, stated that the debenture trustee or trustees have given their consent to the company to be so appointed:

Provided that no person shall be appointed as a debenture trustee, if he—

(a) beneficially holds shares in the company;

(b) is beneficially entitled to moneys which are to be paid by the company to the debenture trustee;

(c) has entered into any guarantee in respect of principal debts secured by the debentures or interest thereon.

(2) Subject to the provisions of this Act, the functions of the debenture trustees shall generally be to protect the interest of holders of debentures (including the creation of securities within the stipulated time) and to redress the grievances of holders of debentures effectively.

(3) In particular, and without prejudice to the generality of the foregoing functions, a debenture trustee may take such other steps as he may deem fit—

(a) to ensure that the assets of the company issuing debentures and each of the guarantors are sufficient to discharge the principal amount at all times;

(b) to satisfy himself that the prospectus or the letter of offer does not contain any matter which is inconsistent with the terms of the debentures or with the trust deed;

(c) to ensure that the company does not commit any breach of covenants and provisions of the trust deed;

(d) to take such reasonable steps to remedy any breach of the covenants of the trust deed or the terms of issue of debentures;

(e) to take steps to call a meeting of holders of debentures as and when such meeting is required to be held.

(4) Where at any time the debenture trustee comes to a conclusion that the assets of the company are insufficient or are likely to become insufficient to discharge the principal amount as and when it becomes due, the debenture trustee may file a petition before the Company Law Board and the Company Law Board may, after hearing the company and any other person interested in the matter, by an order, impose such restrictions on the incurring of any further liabilities as the Company Law Board thinks necessary in the interests of holders of the debentures.

117C. (1) Where a company issues debentures after the commencement of this Act, it shall create a debenture redemption reserve for the redemption of such debentures, to which adequate amounts shall be credited, from out of its profits every year until such debentures are redeemed.

(2) The amounts credited to the debenture redemption reserve shall not be utilised by the company except for the purpose aforesaid.

(3) The company referred to in sub-section (1) shall pay interest and redeem the debentures in accordance with the terms and conditions of their issue.

(4) Where a company fails to redeem the debentures on the date of maturity, the Company Law Board may, on the application of any or all the holders of debentures shall, after hearing the parties concerned, direct, by order, the company to redeem the debentures forthwith by the payment of principal and interest due thereon.

(5) If default is made in complying with the order of the Company Law Board under sub-section (4), every officer of the company who is in default, shall be punishable with imprisonment which may extend to three years and shall also be liable to a fine of not less than five hundred rupees for every day during which such default continues.”.

#### 49. In section 118 of the principal Act, in sub-section (2)—

(a) for the words “fifty rupees”, the words “five hundred rupees” shall be substituted;

(b) for the words “twenty rupees”, the words “two hundred rupees” shall be substituted.

Liability of  
company to  
create security  
and debenture  
redemption  
reserve.

Amendment  
of section 118.

Amendment of  
section 127.

**50.** In section 127 of the principal Act, in sub-section (2), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment of  
section 133.

**51.** In section 133 of the principal Act, in sub-section (2), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of  
section 137.

**52.** In section 137 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of  
section 142.

**53.** In section 142 of the principal Act,—

(a) in sub-section (1), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of  
section 143.

**54.** In section 143 of the principal Act, in sub-section (2), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment of  
section 144.

**55.** In section 144 of the principal Act, in sub-section (3),—

(a) for the words "fifty rupees", the words "five hundred rupees" shall be substituted;

(b) for the words "twenty rupees", the words "two hundred rupees" shall be substituted.

Amendment of  
section 146.

**56.** In section 146 of the principal Act, in sub-section (4), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of  
section 147.

**57.** In section 147 of the principal Act,—

(a) in sub-section (2), for the words "fifty rupees", the words "five hundred rupees" shall be substituted;

(b) in sub-section (3), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted;

(c) in sub-section (4), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment of  
section 148.

**58.** In section 148 of the principal Act, in sub-section (2), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of  
section 149.

**59.** In section 149 of the principal Act,—

(a) in sub-section (2A), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted;

(b) in sub-section (6), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment of  
section 150.

**60.** In section 150 of the principal Act, in sub-section (2), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of  
section 151.

**61.** In section 151 of the principal Act, in sub-section (4), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of  
section 152.

**62.** In section 152 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of  
section 153A.

**63.** Section 153A of the principal Act, shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The provisions of this section shall not apply on and after the commencement of the Companies (Amendment) Act, 2000.".

**64.** In section 153B of the principal Act, after *Explanation* to sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of  
section 153B.

“(5) The provisions of this section shall not apply on and after the commencement of the Companies (Amendment) Act, 2000.”

Amendment of  
section 154.

**65.** In section 154 of the principal Act, in sub-section (2), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment of  
section 154.

**66.** In section 157 of the principal Act, in sub-section (3), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of  
section 157.

**67.** In section 158 of the principal Act, in sub-section (9), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of  
section 158.

**68.** In section 159 of the principal Act, in sub-section (1), in clause (g), the words “managing agents, secretaries and treasurers” shall be omitted.

Amendment of  
section 159.

**69.** In section 160 of the principal Act, in sub-section (1), in clause (b), the words “its managing agent, its secretaries and treasurers” shall be omitted.

Amendment of  
section 160.

**70.** In section 162 of the principal Act, in sub-section (1), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of  
section 162.

**71.** In section 163 of the principal Act, in sub-section (5), for the words “fifty rupees” the words “five hundred rupees” shall be substituted.

Amendment of  
section 163.

**72.** In section 165 of the principal Act,—

Amendment of  
section 165.

(a) in sub-section (3),—

(i) in clause (d), the words “managing agent, secretaries and treasurers,” shall be omitted;

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

“(g) the arrears, if any, due on calls from every director and from the manager; and

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

“(h) the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares or debentures to any director or to the manager;”;

(b) in sub-section (9), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment  
of section 168.

**73.** In section 168 of the principal Act,—

(a) for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(b) for the words “two hundred and fifty rupees”, the words “two thousand five hundred rupees” shall be substituted.

Amendment  
of section  
173.

**74.** In section 173 of the principal Act, in sub-section (2), the words “the managing agent, if any, the secretaries and treasurers, if any,” at both the places where they occur shall be omitted.

**75.** In section 176 of the principal Act,—

Amendment  
of section  
176.

(a) in sub-section (2), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted;

(b) in sub-section (4), for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of  
section 187B.

**76.** In section 187B of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) The provisions of this section shall not apply on and after the commencement of the Companies (Amendment) Act, 2000.”.

Amendment of  
section 187C.

**77.** In section 187C of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) The provisions of this section shall not apply to the trustee referred to in section 187B on and after the commencement of the Companies (Amendment) Act, 2000.”.

Amendment of  
section 188.

**78.** In section 188 of the principal Act, in sub-section (8), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment of  
section 192.

**79.** In section 192 of the principal Act,—

(a) in sub-section (4), clause (d) shall be omitted;

(b) in sub-section (5), for the words “twenty rupees”, the words “two hundred rupees” shall be substituted;

(c) in sub-section (6), for the words “ten rupees”, the words “one hundred rupees” shall be substituted.

**80.** After section 192 of the principal Act, the following section shall be inserted namely:—

“192A. (1) Notwithstanding anything contained in the foregoing provisions of this Act, a listed public company may, and in the case of resolutions relating to such business as the Central Government may, by notification, declare to be conducted only by postal ballot, shall, get any resolution passed by means of a postal ballot, instead of transacting the business in general meeting of the company.

(2) Where a company decides to pass any resolution by resorting to postal ballot, it shall send a notice to all the shareholders, along with a draft resolution explaining the reasons therefor, and requesting them to send their assent or dissent in writing on a postal ballot within a period of thirty days from the date of posting of the letter.

(3) The notice shall be sent by registered post acknowledgement due, or by any other method as may be prescribed by the Central Government in this behalf, and shall include with the notice, a postage pre-paid envelope for facilitating the communication of the assent or dissent of the shareholder to the resolution within the said period.

(4) If a resolution is assented to by a requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been duly passed at a general meeting convened in that behalf.

(5) If a shareholder sends under sub-section (2) his assent or dissent in writing on a postal ballot and thereafter any person fraudulently defaces or destroys the ballot paper or declaration of identity of the shareholder, such person shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(6) If a default is made in complying with sub-sections (1) to (4), the company and every officer of the company, who is in default shall be punishable with fine which may extend to fifty thousand rupees in respect of each such default.

*Explanation.*—For the purposes of this section, “postal ballot” includes voting by electronic mode.

81. In section 193 of the principal Act, in sub-section (6), for the words "fifty rupees", the words "five hundred rupees" shall be substituted. Amendment of section 193.
82. In section 196 of the principal Act, in sub-section (3), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 196.
83. In section 197 of the principal Act, in sub-section (2), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 197.
84. In section 197A of the principal Act, clauses (b) and (c) shall be omitted. Amendment of section 197A.
85. In section 198 of the principal Act,—  
 (a) in sub-section (1),—  
 (i) the words "managing agent, secretaries and treasurers or" shall be omitted;  
 (ii) for the figures and word ", 350 and 351", the word and figures "and 350" shall be substituted;  
 (iii) proviso shall be omitted;  
 (b) in sub-section (4), in the *Explanation*, the figures "348, 352," shall be omitted.
86. In section 199 of the principal Act, in sub-section (1),—  
 (a) the words ", the managing agent, secretaries and treasurers" shall be omitted;  
 (b) for the figures and word ", 350 and 351", the word and figures "and 350" shall be substituted.
87. In section 201 of the principal Act, sub-section (2) shall be omitted. Amendment of section 201.
88. In section 202 of the principal Act, in sub-section (1),—  
 (a) the words "managing agent, secretaries and treasurers, or" shall be omitted;  
 (b) for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.
89. In section 203 of the principal Act, in sub-section (7), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted. Amendment of section 203.
90. In section 204 of the principal Act,—  
 (a) in sub-section (1), the words "managing agent, secretaries and treasurers or" shall be omitted;  
 (b) sub-section (2) shall be omitted.
91. Section 204A of the principal Act shall be omitted. Omission of section 204A.
92. In section 205 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—  
 "(1A) The Board of directors may declare interim dividend and the amount of dividend including interim dividend shall be deposited in a separate bank account within five days from the date of declaration of such dividend.  
 (1B) The amount of dividend including interim dividend so deposited under sub-section (1A) shall be used for payment of interim dividend.  
 (1C) The provisions contained in sections 205, 205A, 205C, 206, 206A and 207 shall, as far as may be, also apply to any interim dividend."
93. In section 205A of the principal Act,—  
 (a) in sub-section (1), for the words "forty-two days", wherever they occur, the words "thirty days" shall be substituted; Amendment of section 205A.

Substitution of new section for section 207.  
Penalty for failure to distribute dividends within thirty days.

(b) in sub-section (8), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

**94. For section 207 of the principal Act, the following section shall be substituted, namely:—**

"207. Where a dividend has been declared by a company but has not been paid, or the warrant in respect thereof has not been posted, within thirty days from the date of declaration, to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with simple imprisonment for a term which may extend to three years and shall also be liable to a fine of one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent. per annum during the period for which such default continues:

Provided that no offence shall be deemed to have been committed within the meaning of the foregoing provisions in the following cases, namely:—

- (a) where the dividend could not be paid by reason of the operation of any law;
- (b) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with;
- (c) where there is a dispute regarding the right to receive the dividend;
- (d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or
- (e) where, for any other reason, the failure to pay the dividend or to post the warrant within the period aforesaid was not due to any default on the part of the company.";

**95. In section 209 of the principal Act,—**

(a) in sub-section (5), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (6),—

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

"(a) where the company has a managing director or manager, such managing director or manager and all officers and other employees of the company; and";

(ii) clauses (b) and (c) shall be omitted;

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

"(d) where the company has neither a managing director nor manager, every director of the company.";

(iv) clause (e) shall be omitted;

(c) in sub-section (7),—

(i) the words "managing agent, secretaries and treasurers," shall be omitted;

(ii) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

**96. In section 209A of the principal Act,—**

(a) in sub-section (1), for clause (ii) and the proviso, the following shall be substituted, namely:—

Amendment of section 209.

Amendment of section 209A.

"(ii) by such officer of the Government as may be authorised by the Central Government in this behalf;

(iii) by such officers of the Securities and Exchange Board of India as may be authorised by it:

Provided that such inspection may be made without giving any previous notice to the company or any officer thereof:

Provided further that the inspection by the Securities and Exchange Board of India shall be made in respect of matters covered under sections referred to in section 55A;";

(b) In sub-section (6), after the words "Central Government", the words "or the Securities and Exchange Board of India in respect of inspection made by its officers" shall be inserted;

(c) in sub-section (8), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

**97.** In section 210 of the principal Act, in sub-sections (5) and (6), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 210.

**98.** In section 211 of the principal Act,—

(a) in sub-section (7), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (8),—

(i) the words "managing agent, secretaries and treasurers," shall be omitted;

(ii) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

**99.** In section 212 of the principal Act,—

Amendment of section 212.

(a) in sub-section (9), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (10),—

(i) the words "managing agent, secretaries and treasurers" shall be omitted;

(ii) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

**100.** In section 215 of the principal Act, in sub-section (1), in clause (ii), the words "managing agent, secretaries and treasurers," shall be omitted.

Amendment of section 215.

**101.** In section 217 of the principal Act,—

(a) after *Explanation* to sub-section (2A), the following sub-section shall be inserted, namely:—

"(2AA) The Board's report shall also include a Directors' Responsibility Statement, indicating therein,—

(i) that in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;

(ii) that the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit or loss of the company for that period;

Amendment of section 217.

(iii) that the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;

(iv) that the directors had prepared the annual accounts on a going concern basis.”;

(b) in sub-sections (5) and (6), for the words “two thousand rupees”, the words “twenty thousand rupees” shall be substituted.

Amendment of section 218.

**102.** In section 218 of the principal Act, for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment of section 219.

**103.** In section 219 of the principal Act, in sub-sections (3) and (4), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment of section 220.

**104.** In section 220 of the principal Act, in sub-section (1), in clause (a), the words “managing agent, secretaries and treasurers,” shall be omitted.

Amendment of section 221.

**105.** In section 221 of the principal Act,—

(a) sub-section (2) shall be omitted;

(b) in sub-section (3), the words “managing agent, secretaries and treasurers,” shall be omitted;

(c) in sub-section (4), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment of section 223.

**106.** In section 223 of the principal Act, in sub-section (4), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of section 224.

**107.** In section 224 of the principal Act,—

(a) in sub-section (1B), after the third proviso, the following proviso shall be inserted, namely:—

“Provided also that the provisions of this sub-section shall not apply, on and after the commencement of the Companies (Amendment) Act, 2000, to a private company.”;

(b) in sub-section (4), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted;

(c) in sub-section (8), after clause (a), the following clause shall be inserted, namely:—

“(aa) in the case of an auditor appointed under section 619 by the Comptroller and Auditor-General of India, shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine.”.

Amendment of section 226.

**108.** In section 226 of the principal Act, in sub-section (3), for clauses (e) and (f), the following clause shall be substituted, namely:—

“(e) a person holding any security of that company after a period of one year from the date of commencement of the Companies (Amendment) Act, 2000.

*Explanation.*—For the purposes of this section, “security” means an instrument which carries voting rights.’.

Amendment of section 227.

**109.** In section 227 of the principal Act, in sub-section (3), after clause (d), the following clauses shall be inserted, namely:—

“(e) in thick type or in italics the observations or comments of the auditors which have any adverse effect on the functioning of the company;

(f) whether any director is disqualified from being appointed as director under clause (g) of sub-section (1) of section 274.”.

**110.** In section 232 of the principal Act, for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment of section 232.

**111.** In section 233 of the principal Act, for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of section 233.

**112.** In section 233A of the principal Act, in sub-section (5), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment of section 233A.

**113.** In section 233B of the principal Act, in sub-section (11), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment of section 233B.

**114.** In section 234 of the principal Act, in sub-section (4), in clause (a),—

Amendment of section 234.

(a) for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

(b) for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

**115.** In section 234A of the principal Act,—

Amendment of section 234A.

(a) in sub-section (1),—

(i) the words “any managing agent or secretaries and treasurers or” shall be omitted;

(ii) the words “or any associate of such managing agent or secretaries and treasurers,” shall be omitted;

(b) in sub-section (3), the words “the managing agent or the secretaries and treasurers or the associate of such managing agent or secretaries and treasures or” shall be omitted.

**116.** In section 239 of the principal Act, in sub-section (1),—

Amendment of section 239.

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

“(b) any other body corporate which is; or has at any relevant time been managed by any person as managing director or as manager, who is, or was, at the relevant time, the managing director or the manager of the company, or”;

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

“(d) any person who is or has at any relevant time been the company’s managing director or manager;”;

(c) for the portion beginning with the words “the inspector shall, subject to the provisions of sub-section (2)” and ending with the words “affairs of the first-mentioned company”, the following shall be substituted, namely:—

“the inspector shall, subject to the provisions of sub-section (2), have power so to do and shall report on the affairs of the other body corporate or of the managing director or manager, so far as he thinks that the results of his investigation thereof are relevant to the investigation of the affairs of the first-mentioned company.”.

**117.** In section 240 of the principal Act,—

Amendment of section 240.

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

"(1) It shall be the duty of all officers and other employees and agents of the company, and where the affairs of any other body corporate are investigated by virtue of section 239, of all officers and other employees and agents of such body corporate—

(a) to preserve and to produce to an inspector or any person authorised by him in this behalf with the previous approval of the Central Government, all books and papers of, or relating to, the company or, as the case may be, or of relating to the other body corporate, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.";

(b) in sub-section (2), for the words "other body corporate, managing agent, secretaries and treasurers or associate," the words "or other body corporate" shall be substituted;

(c) in sub-section (3),—

(i) for the words "two thousand rupees", the words "twenty thousand rupees" shall be substituted;

(ii) for the words "two hundred rupees", the words "two thousand rupees" shall be substituted.

**118. In section 240A of the principal Act,—**

(a) in sub-section (1),—

(i) the words "any managing agent or secretaries and treasurers or" shall be omitted;

(ii) the words "or any associate of such managing agent or secretaries and treasurers" shall be omitted;

(b) in sub-section (3), the words "the managing agent, or the secretaries and treasurers or the associate of such managing agent or secretaries and treasurers or" shall be omitted.

**119. In section 241 of the principal Act, in sub-section (2),—**

(a) in clause (a), the words "managing agent, secretaries and treasurers or associate" shall be omitted;

(b) in clause (b),—

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

"(i) who is a member of the company or other body corporate dealt with in the report by virtue of section 239; or";

(ii) sub-clause (ii) shall be omitted;

(iii) in sub-clause (iii), the words ", managing agent, secretaries and treasurers or associate" shall be omitted.

**120. In section 242 of the principal Act, in sub-section (1),—**

(a) the words "managing agent, secretaries and treasurers, or associate of a managing agent or secretaries and treasurers," shall be omitted;

(b) for the words "agents of the company, body corporate, managing agent, secretaries and treasurers, or associate", the words "agents of the company or body corporate," shall be substituted.

Amendment of  
section 240A.

Amendment of  
section 241.

Amendment of  
section 242.

**121. In section 243 of the principal Act,—**

(a) the words "or any such managing agent, secretaries and treasurers or associate being a body corporate," shall be omitted.

(b) for the words "the company, body corporate, managing agent, secretaries and treasurers or associate," at both the places where they occur, the words "the company or body corporate," shall be substituted.

Amendment of  
section 243.**122. In section 245 of the principal Act, the words "managing agent, secretaries and treasurers, associate," wherever they occur, shall be omitted.****123. In section 247 of the principal Act,—**

(a) sub-section (4) shall be omitted;

(b) in sub-section (5),—

(i) the words "or of any managing agent, secretaries and treasurers, or associate" shall be omitted;

(ii) the words "managing agent, secretaries and treasurers, or associate" at both the places where they occur, shall be omitted;

(iii) the words "or of the managing agent, secretaries, treasurers or associate" shall be omitted.

Amendment of  
section 245.Amendment of  
section 247.**124. Sections 248 and 249 of the principal Act shall be omitted.**Omission of  
sections 248  
and 249.**125. In section 250 of the principal Act,—**

(a) in sub-section (1), the figures and word "248 or 249" shall be omitted;

(b) in sub-sections (9) and (10), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of  
section 250.**126. In section 250A of the principal Act, for the figures and word "247, 248 or 249", the word and figures "or 247" shall be substituted.**Amendment of  
section 250A.**127. In section 251 of the principal Act,—**

(a) in the opening portion, for the figures and word "234 to 250" the figures and words "234 to 247 and 250" shall be substituted;

(b) in clause (b), the words "managing agent, secretaries and treasurers" at both the places where they occur, shall be omitted.

Amendment of  
section 251.**128. In section 252 of the principal Act, in sub-section (1), the following shall be inserted, namely:—**Amendment of  
section 252.

'Provided that a public company having,—

(a) a paid-up capital of five crore rupees or more;

(b) one thousand or more small shareholders,

may have a director elected by such small shareholders in the manner as may be prescribed.'

*Explanation.*—For the purposes of this sub-section, "small shareholders" means a shareholder holding shares of nominal value of twenty thousand rupees or less in a public company to which this section applies.'

**129. Section 261 of the principal Act shall be omitted.**Omission of  
section 261.**130. In section 269 of the principal Act,—**Amendment of  
section 269.

(a) in sub-section (6), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted;

(b) in sub-section (10),—

(i) in clause (a), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(ii) in clauses (b) and (c), for the words "ten thousand rupees", the words "one lakh rupees" shall be substituted;

(c) in sub-section (11), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

**Amendment of section 272.** 131. In section 272 of the principal Act, for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

**Amendment of section 274.** 132. In section 274 of the principal Act, in sub-section (1), after clause (f), the following shall be inserted, namely:—

"(g) such person is already a director of a public company which,—

(A) has not filed the annual accounts and annual returns for any continuous three financial years commencing on and after the first day of April, 1999; or

(B) has failed to repay its deposit or interest thereon on due date or redeem its debentures on due date or pay dividend and such failure continues for one year or more:

Provided that such person shall not be eligible to be appointed as a director of any other public company for a period of five years from the date on which such public company, in which he is a director, failed to file annual accounts and annual returns under sub-clause (A) or has failed to repay its deposit or interest or redeem its debentures on due date or pay dividend referred to in clause (B).".

**Amendment of section 275.** 133. In section 275 of the principal Act, for the words "twenty companies", the words "fifteen companies" shall be substituted.

**Amendment of section 276.** 134. In section 276 of the principal Act,—

(a) for the word "twenty" wherever it occurs, the word "fifteen" shall be substituted;

(b) for the words "this Act" at both the places where they occur, the words, brackets and figures "the Companies (Amendment) Act, 2000" shall be substituted.

**Amendment of section 277.** 135. In section 277 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "twenty companies", the words "fifteen companies" shall be substituted;

(ii) for the words "this Act", the words, brackets and figures "the Companies (Amendment) Act, 2000" shall be substituted;

(b) in sub-section (2),—

(i) for the words "nineteen companies", the words "fourteen companies" shall be substituted;

(ii) for the words "this Act", the words, brackets and figures "the Companies (Amendment) Act, 2000" shall be substituted;

(iii) for the word "twenty" at both the places where it occurs, the word "fifteen" shall be substituted.

**136. In section 279 of the principal Act,—**Amendment of  
section 279.

(a) for the words "twenty companies", the words "fifteen companies" shall be substituted;

(b) for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

**137. In section 283 of the principal Act,—**Amendment of  
section 283.

(a) in sub-section (1), in clause (l),—

(i) the words "or as a nominee of the managing agent of the company", shall be omitted;

(ii) the words "or, as the case may be, the managing agency comes to an end" shall be omitted;

(b) in sub-section (2A), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

**138. In section 286 of the principal Act, in sub-section (2), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.**Amendment of  
section 286.**139. In section 292 of the principal Act, in sub-section (1), in the first proviso, the words "the managing agent, secretaries and treasurers", shall be omitted.**Amendment of  
section 292.**140. After section 292 of the principal Act, the following section shall be inserted, namely:—**Insertion of  
new section  
292A.

**"292A. (1) Every public company having paid-up capital of not less than five crores of rupees shall constitute a committee of the Board known as Audit Committee which shall consist of not less than three directors and such number of other directors as the Board may determine of which two-thirds of the total number of members shall be directors, other than managing or whole-time directors.**

(2) Every Audit Committee constituted under sub-section (1) shall act in accordance with terms of reference to be specified in writing by the Board.

(3) The members of the Audit Committee shall elect a chairman from amongst themselves.

(4) The annual report of the company shall disclose the composition of the Audit Committee.

(5) The auditors, the internal auditor, if any, and the director-in-charge of finance shall attend and participate at meetings of the Audit Committee but shall not have the right to vote.

(6) The Audit Committee should have discussions with the auditors periodically about internal control systems, the scope of audit including the observations of the auditors and review the half-yearly and annual financial statements before submission to the Board and also ensure compliance of internal control systems.

(7) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in this section or referred to it by the Board and for this purpose, shall have full access to information contained in the records of the company and external professional advice, if necessary.

(8) The recommendations of the Audit Committee on any matter relating to financial management including the audit report, shall be binding on the Board.

(9) If the Board does not accept the recommendations of the Audit Committee, it shall record the reasons therefor and communicate such reasons to the shareholders.

Audit  
Committee.

(10) The chairman of the Audit Committee shall attend the annual general meetings of the company to provide any clarification on matters relating to audit.

(11) If a default is made in complying with the provisions of this section, the company, and every officer who is in default, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.”.

Amendment of  
section 294.

**141. In section 294 of the principal Act,—**

(a) sub-section (4) shall be omitted;

(b) in sub-section (8),—

(i) for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(ii) for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of  
section 295.

**142. In section 295 of the principal Act,—**

(a) in sub-section (1), in clause (e), the words “managing agent, secretaries and treasurers,” shall be omitted.

(b) in sub-section (2),—

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

“(b) any loan made by a holding company to its subsidiary company;”;

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

“(c) any guarantee given or security provided by a holding company in respect of any loan made to its subsidiary company.”;

(c) in sub-section (4), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Omission of  
section 298.

**143. Section 298 of the principal Act shall be omitted.**

Amendment of  
section 299.

**144. In section 299 of the principal Act, in sub-section (4), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.**

Amendment of  
section 300.

**145. In section 300 of the principal Act, in sub-section (4), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.**

Amendment of  
section 301.

**146. In section 301 of the principal Act, in sub-section (4), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.**

Amendment of  
section 302.

**147. In section 302 of the principal Act,—**

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

(b) in sub-section (5), for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted;

(c) in sub-section (6), the words “managing agent or secretaries and treasurers,” shall be omitted.

Amendment of  
section 303.

**148. In section 303 of the principal Act,—**

(a) the words “managing agent, secretaries and treasurers,” wherever they occur, shall be omitted;

(b) in sub-section (1), in clause (a), the words "managing agent" shall be omitted;

(c) in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

**149.** In section 304 of the principal Act, in sub-section (2), in clause (a), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of section 304.

**150.** In section 305 of the principal Act, in sub-section (1),—

Amendment of section 305.

(a) the words "managing agent, secretaries and treasurers," at both the places where they occur shall be omitted.

(b) for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

**151.** In section 307 of the principal Act,—

Amendment of section 307.

(a) in sub-section (7), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted;

(b) in sub-section (8),—

(i) for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(ii) for the words "twenty rupees", the words "two hundred rupees" shall be substituted;

(c) sub-section (11) shall be omitted.

**152.** In section 308 of the principal Act, in sub-section (3), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of section 308.

**153.** In section 309 of the principal Act, in sub-section (4), in the first proviso, in clause (i), the words "a managing agent or secretaries and treasurers," shall be omitted.

Amendment of section 309.

**154.** In section 314 of the principal Act, in sub-section (2), in clause (a), the words "managing agent, secretaries and treasurers" shall be omitted.

Amendment of section 314.

**155.** In section 318 of the principal Act, in sub-section (3), in clause (a), the words "managing agent" shall be omitted.

Amendment of section 318.

**156.** In section 320 of the principal Act, in sub-section (3), for the words "two hundred and fifty rupees", the words "two thousand five hundred rupees" shall be substituted.

Amendment of section 320.

**157.** In section 322 of the principal Act,—

Amendment of section 322.

(a) in sub-section (1), the words "or of the managing agent, secretaries and treasurers" shall be omitted;

(b) in sub-section (2),—

(i) the words ", managing agent, secretaries and treasurers" at both the places where they occur, shall be omitted;

(ii) the words ", the managing agent, secretaries and treasurers" shall be omitted;

(iii) the words ", its managing agent, secretaries and treasurers," shall be omitted;

(c) in sub-section (3),—

(i) the words "managing agent, secretaries and treasurers" at both the places where they occur, shall be omitted;

(ii) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 323.

**158.** In section 323 of the principal Act, in sub-section (1), the words "or of its managing agent, secretaries and treasurers" shall be omitted.

Omission of sections 324, 324A, 325, 325A, 326 to 348.

**159.** Sections 324, 324A, 325, 325A, 326 to 348 of the principal Act shall be omitted.

Amendment of section 349.

**160.** In section 349 of the principal Act,—

(a) in sub-section (1), the words and figures "for the purpose of section 348," shall be omitted;

(b) in sub-section (5), clause (a) shall be omitted.

Amendment of section 350.

**161.** In section 350 of the principal Act, for the words "the amount calculated with reference to the written-down value of the assets", the words "the amount of depreciation on assets" shall be substituted.

Omission of sections 351 to 354.

**162.** Sections 351 to 354 of the principal Act shall be omitted.

Amendment of section 355.

**163.** In section 355 of the principal Act, for the figures and word "348 to 354" the figures and word "349 and 350" shall be substituted.

Omission of sections 356 to 369.

**164.** Sections 356 to 369 of the principal Act shall be omitted.

Amendment of section 370A.

**165.** In section 370A of the principal Act,—

(a) the words and figures "section 369 or" shall be omitted;

(b) in the proviso, clause (a) shall be omitted.

Amendment of section 371.

**166.** In section 371 of the principal Act, in sub-section (1),—

(a) the words and figures "section 369 or" shall be omitted;

(b) for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of section 374.

**167.** In section 374 of the principal Act, for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Omission of section 375.

**168.** Section 375 of the principal Act shall be omitted.

Substitution of new section for section 376.

**169.** For section 376 of the principal Act, the following section shall be substituted, namely:—

Conditions prohibiting reconstruction or amalgamation of company.

"376. Where any provision in the memorandum or articles of a company, or in any resolution passed in general meeting by, or by the Board of Directors of, the company, or in an agreement between the company and any other person, whether made before or after the commencement of this Act, prohibits the reconstruction of the company or its amalgamation with any body corporate or bodies corporate, either absolutely or except on the condition that the managing director or manager of the company is appointed or reappointed as managing director or manager of the reconstructed company or of the body resulting from amalgamation, as the case may be, shall become void with effect from the commencement of this Act, or be void, as the case may be."

- 170.** Sections 377 to 383 of the principal Act shall be omitted. Omission of sections 377 to 383.
- 171.** In section 383A of the principal Act,—  
 (a) in sub-section (1), the following proviso shall be inserted, namely:—  
 “Provided that every company not required to employ a whole-time secretary under sub-section (1) and having a paid-up share capital of ten lakh rupees or more shall file with the Registrar a certificate from a secretary in whole-time practice in such form and within such time and subject to such conditions as may be prescribed, as to whether the company has complied with all the provisions of this Act and a copy of such certificate shall be attached with Board’s report referred to in section 217.”;  
 (b) in sub-section (1A), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted. Amendment of section 383A.
- 172.** In section 387 of the principal Act, for the figures and word “350 and 351”, the word and figures “and 350” shall be substituted. Amendment of section 387.
- 173.** In section 388E of the principal Act,—  
 (a) in sub-section (1), the proviso shall be omitted; Amendment of section 388E.  
 (b) sub-section (2) shall be omitted.
- 174.** In section 391 of the principal Act, in sub-section (5), for the words “ten rupees”, the words “one hundred rupees” shall be substituted. Amendment of section 391.
- 175.** In section 393 of the principal Act,—  
 (a) in sub-section (1), in clause (a), the words “managing agent, secretaries and treasurers” shall be omitted; Amendment of section 393.  
 (b) in sub-section (4),—  
   (i) for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted;  
   (ii) the words “managing agent, secretaries and treasurers,” shall be omitted;  
 (c) in sub-section (5),—  
   (i) the words “managing agent, secretaries and treasurers” shall be omitted;  
   (ii) for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.
- 176.** In section 394 of the principal Act, in sub-section (3), for the words “fifty rupees”, the words “five hundred rupees” shall be substituted. Amendment of section 394.
- 177.** In section 395 of the principal Act, in sub-section (4A), in clause (b), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted. Amendment of section 395.
- 178.** In section 398 of the principal Act, in sub-section (1), in clause (b),—  
 (i) the words “or of its managing agent or secretaries and treasurers” shall be omitted;  
 (ii) the words “or in the constitution or control of the firm or body corporate acting as its managing agent or secretaries and treasurers,” shall be omitted. Amendment of section 398.

Amendment of section 402. 179. In section 402 of the principal Act, in clause (d), sub-clauses (iii) and (iv) shall be omitted.

Amendment of section 404. 180. In section 404 of the principal Act, in sub-section (4), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of section 405. 181. In section 405 of the principal Act, the words "the managing agent, secretaries and treasurers" shall be omitted.

Amendment of section 407. 182. In section 407 of the principal Act,—

(a) in sub-section (1), in clause (b),—

(i) the words "managing agent, secretaries and treasurers," at both the places where they occur, shall be omitted;

(ii) the words "managing agent or secretaries and treasurers" shall be omitted;

(b) in sub-section (2),—

(A) in clause (a), the words "managing agent, secretaries and treasurers" shall be omitted;

(B) clause (b) shall be omitted;

(C) in clause (c), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of section 409. 183. In section 409 of the principal Act, in sub-section (1), the words "the managing agent, the secretaries and treasurers" shall be omitted.

Amendment of section 416. 184. In section 416 of the principal Act,—

(a) in sub-section (1), the words "managing agent, secretaries and treasurers" shall be omitted;

(b) in sub-section (3), in clause (b), for the words "two hundred rupees", the words "two thousand rupees" shall be substituted.

Amendment of section 420. 185. In section 420 of the principal Act, for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 423. 186. In section 423 of the principal Act, for the words "two hundred rupees", the words "two thousand rupees" shall be substituted.

Amendment of section 427. 187. In section 427 of the principal Act, the words "managing agent, secretaries and treasurers" wherever they occur, shall be omitted.

Amendment of section 445. 188. In section 445 of the principal Act, in sub-section (1), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

Amendment of section 454. 189. In section 454 of the principal Act, in sub-section (5), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

Amendment of section 469. 190. In section 469 of the principal Act, in sub-section (2), in clause (b), the words "managing agent, secretaries and treasurers" shall be omitted.

Amendment of section 481. 191. In section 481 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of section 485. 192. In section 485 of the principal Act, in sub-section (2), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

Amendment of section 488. 193. In section 488 of the principal Act, in sub-section (3), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

- 194.** In section 491 of the principal Act, the words "managing agent, secretaries and treasurers," shall be omitted. Amendment of section 491.
- 195.** In section 493 of the principal Act, in sub-section (3), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted. Amendment of section 493.
- 196.** In section 495 of the principal Act, in sub-section (2), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 495.
- 197.** In section 496 of the principal Act, in sub-section (2), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted. Amendment of section 496.
- 198.** In section 497 of the principal Act,—  
 (a) in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted;  
 (b) in sub-section (7), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 497.
- 199.** In section 500 of the principal Act, in sub-section (6), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 500.
- 200.** In section 501 of the principal Act, in sub-section (2), for the words "fifty rupees", the words "five hundred rupees" shall be substituted. Amendment of section 501.
- 201.** In section 508 of the principal Act, in sub-section (2), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted. Amendment of section 508.
- 202.** In section 509 of the principal Act,—  
 (a) in sub-section (3), for the words "fifty rupees", the words "five hundred rupees" shall be substituted;  
 (b) in sub-section (7), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 509.
- 203.** In section 513 of the principal Act, in sub-section (3),—  
 (a) the words "the managing agent or secretaries and treasurers" shall be omitted;  
 (b) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 513.
- 204.** In section 514 of the principal Act, for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 514.
- 205.** In section 516 of the principal Act, in sub-section (2), for the words "fifty rupees", the words "five hundred rupees" shall be substituted. Amendment of section 516.
- 206.** In section 542 of the principal Act, in sub-section (3), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted. Amendment of section 542.
- 207.** In section 543 of the principal Act, in sub-section (1), for the words "managing agent, secretaries and treasurers", at both the places where they occur, shall be omitted. Amendment of section 543.
- 208.** In section 547 of the principal Act, in sub-section (2), for the words "five hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 547.
- 209.** In section 550 of the principal Act, in sub-section (4), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted. Amendment of section 550.
- 210.** In section 551 of the principal Act, in sub-section (5),—  
 (a) for the words "five hundred rupees", the words "five thousand rupees" shall be substituted; Amendment of section 551.

(b) in the proviso, for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

**Amendment of section 559.** **211.** In section 559 of the principal Act, in sub-section (2), for the words "fifty rupees", the words "five hundred rupees" shall be substituted.

**Amendment of section 560.** **212.** In section 560 of the principal Act, the words "managing agent, secretaries and treasurers" wherever they occur, shall be omitted.

**Amendment of section 568.** **213.** In section 568 of the principal Act, in clause (a), the words "the managing agent, if any; the secretaries and treasurers, if any," shall be omitted.

**Amendment of section 583.** **214.** In section 583 of the principal Act, in sub-section (5), in clauses (a) and (b), the words "managing agent, secretaries and treasurers," shall be omitted.

**Amendment of section 598.** **215.** In section 598 of the principal Act,—

(a) for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

**Insertion of new section 605A.** **216.** After section 605 of the principal Act, the following section shall be inserted, namely:—

**Offer of Indian Depository Receipts.** "605A. Notwithstanding anything contained in any other law for the time being in force, the Central Government may make rules applicable for—

(a) the offer of Indian Depository Receipts;

(b) the requirement of disclosures in prospectus or letter of offer issued in connection with Indian Depository Receipts;

(c) the manner in which the Indian Depository Receipts shall be dealt in a depository mode and by custodian and underwriters;

(d) the manner of sale, transfer or transmission of Indian Depository Receipts,

by a company incorporated, or to be incorporated outside India, whether the company has or has not been established or, will or will not establish any place of business in India."

**Amendment of section 606.** **217.** In section 606 of the principal Act,—

(a) after the words "application for shares or debentures", the words "application for shares, debentures or Indian Depository Receipts" shall be substituted;

(b) for the word and figures "and 605", the figures, word and letter "605 and 605A" shall be substituted;

(c) for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

**Amendment of section 615.** **218.** In section 615 of the principal Act, in sub-section (6), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

**Omission of section 618.** **219.** Section 618 of the principal Act shall be omitted.

**Amendment of section 619.** **220.** In section 619 of the principal Act, in sub-section (2), the words "the Central Government on the advice of" shall be omitted.

**221.** In section 621 of the principal Act, in sub-section (1), after the proviso, the following shall be inserted, namely:—

Amendment of  
section 621.

“Provided further that the court may take cognizance of offence relating to issue and transfer of securities and non-payment of dividend on a complaint in writing by a person authorised by the Securities and Exchange Board of India.”.

**222.** In section 621A of the principal Act, in sub-sections (1) and (6), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment of  
section 621A.

**223.** In section 627 of the principal Act, in sub-section (1), in clause (ii), the words “managing agent, secretaries and treasurers or” shall be omitted.

Amendment of  
section 627.

**224.** In section 629A of the principal Act,—

Amendment of  
section 629A.

(a) for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted;

(b) for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

**225.** In section 630 of the principal Act, in sub-section (1), for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of  
section 630.

**226.** In section 631 of the principal Act, for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

Amendment of  
section 631.

**227.** In section 635AA of the principal Act, in clause (a), for the figures and word “247, 248 or 249” the word and figures “or 247” shall be substituted.

Amendment  
of section  
635AA.

**228.** In section 635B of the principal Act, in sub-section (1), in clause (a), the words and figures “section 248 or section 249” shall be omitted.

Amendment  
of section  
635B.

**229.** In section 637 of the principal Act, in sub-section (2), the figures and brackets “248, 249, 324, 326, 328, 329, 332, 343, 345, 346, 347 (2), 352, 369” shall be omitted.

Amendment  
of section  
637.

**230.** In section 640B of the principal Act,—

Amendment  
of section  
640B.

(a) in sub-section (1), for the figures and word “311, 326, 328, 329, 332, 343, 345, 346 or 352”, the word and figures “or 311” shall be substituted;

(b) in sub-section (2), clause (d) shall be omitted.

**231.** In section 642 of the principal Act, in sub-section (2),—

Amendment  
of section  
642.

(a) for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted;

(b) for the words “fifty rupees”, the words “five hundred rupees” shall be substituted.

## THE CENTRAL ROAD FUND ACT, 2000

No. 54 OF 2000

[27th December, 2000.]

An Act to give statutory status to the existing Central Road Fund governed by the Resolution of Parliament passed in 1988, for development and maintenance of national highways and improvement of safety at railway crossings, and for these purposes to levy and collect by way of cess, a duty of excise and duty of customs on motor spirit commonly known as petrol, high speed diesel oil and for other matters connected therewith.

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

### CHAPTER I

#### PRELIMINARY

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Central Road Fund Act, 2000.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 1st day of November, 2000.

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

Definitions.

(a) "appointed day" means the date on which the Fund is established under sub-section (1) of section 6;

(b) "cess" means a duty in the nature of duty of excise and customs, imposed and collected on motor spirit commonly known as petrol and high speed diesel oil for the purposes of this Act;

(c) "Fund" means the Central Road Fund established under sub-section (1) of section 6;

(d) "national highways" means the highways specified in the Schedule to the National Highways Act, 1956 or any other highway declared as national highway under sub-section (2) of section 2 of the said Act;

(e) "National Highways Authority of India" means an authority constituted under sub-section (1) of section 3 of the National Highways Authority of India Act, 1988;

(f) "prescribed" means prescribed by rules made under this Act.

## CHAPTER II

### CENTRAL ROAD FUND

48 of 1956.

68 of 1988.

21 of 1998.

27 of 1999.

1 of 1944.

52 of 1962.

Levy and  
collection of  
cess.

3. (1) With effect from such date as the Central Government may, by notification in Official Gazette, specify, there shall be levied and collected, as a cess, a duty of excise and customs for the purposes of this Act, on every item specified in column (2) of the Schedule, which is produced in or imported into India and—

(a) removed from a refinery or a factory or an outlet; or

(b) transferred by the person, by whom such item is produced or imported, to another person,

at such rates not exceeding the rate set forth in the corresponding entry in column (3) of the Schedule, as the Central Government may, by notification in the Official Gazette, specify:

Provided that until the Central Government specifies by such notification the rate of the cess in respect of petrol and high speed diesel oil (being items specified in the Schedule), the cess on petrol and high speed diesel oil under this sub-section shall be levied and collected at the rate of rupee one per litre:

Provided further that the additional duty of customs and the additional duty of excise on petrol levied under sub-section (1) of section 103 and sub-section (1) of section 111, as the case may be, of the Finance (No. 2) Act, 1998 and the additional duty of customs and the additional duty of excise on high speed diesel oil levied under sub-section (1) of section 116 and sub-section (1) of section 133, as the case may be, of the Finance Act, 1999 shall be deemed to be a cess for the purposes of this Act from the date of its levy and the proceeds thereof shall be credited to the Fund.

(2) Every cess leviable under sub-section (1) on any item shall be payable by the person by whom such item is produced, and in the case of imports, the cess shall be imposed and collected on items so imported and specified in the Schedule.

(3) The cess leviable under sub-section (1) on the items specified in the Schedule shall be in addition to any cess or duty leviable on those items under any other law for the time being in force.

(4) The provisions of the Central Excise Act, 1944 and the rules made thereunder and the provisions of the Customs Act, 1962 and the rules made thereunder, as the case may be, including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of cess leviable under this section and for this purpose, the provisions of the Central Excise Act, 1944 and of the Customs Act, 1962, as the case may be, shall have effect as if the aforesaid Acts provided for the levy of cess on all items specified in the Schedule.

Crediting of  
cess to  
Consolidated  
Fund of India.

Grants and  
Loans by the  
Central  
Government.

Establishment  
of Central  
Road Fund.

Utilisation of  
the Fund.

Accounts and  
audit.

Powers of  
Central  
Government  
to administer  
the Fund.

**4.** The proceeds of the cess levied under section 3 shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of this Act.

**5.** The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary in the Fund.

**6.** (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 for the purposes of this Act, a Fund to be called as the "Central Road Fund".

(2) The Fund shall be under the control of the Central Government and there shall be credited thereto—

(a) any sums of money paid under section 4 or section 5;

(b) unspent part of the cess, being already levied for the purposes of the development and maintenance of national highways;

(c) the sums, if any, realised by the Central Government in carrying out its functions or in the administration of this Act;

(d) any fund provided by the Central Government for the development and maintenance of State roads;

(3) The balance to the credit of the Fund shall not lapse at the end of the financial year.

**7.** The Fund shall be utilised for the—

(i) development and maintenance of national highways;

(ii) development of the rural roads;

(iii) development and maintenance of other State roads including roads of inter-State and economic importance;

(iv) construction of roads either under or over the railways by means of a bridge and erection of safety works at unmanned rail-road crossings; and

(v) disbursement in respect of such projects as may be prescribed.

**8.** (1) The concerned departments of the Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in respect of allocations of their shares of fund in such form, as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

### CHAPTER III

#### MANAGEMENT OF CENTRAL ROAD FUND

**9.** (1) The Central Government shall have the power to administer the Fund and shall—

(a) take such decisions regarding investment on projects of national highways and expressways as it considers necessary;

(b) take such measures as may be necessary to raise funds for the development and maintenance of the national highways;

(c) allocate and disburse such sums as are considered necessary, to the concerned departments responsible for the development and maintenance of—

- (i) national highways;
- (ii) rural roads;
- (iii) state roads; and
- (iv) construction of roads either under or over the railways by means of a bridge and erect suitable safety works at unmanned rail-road level crossings.

**10. The Central Government shall be responsible for the —**

- (i) administration and management of the share of Fund allocated to the development and maintenance of the national highways;
- (ii) co-ordination and complete and timely utilization of all sums allocated out of the Fund;
- (iii) sanction of schemes for State roads of inter-State and economic importance in such manner as may be prescribed;
- (iv) formulation of criteria on the basis of which the specific projects of State roads of inter-State and economic importance are to be approved and financed out of share of State roads;
- (v) release of funds to the States for specific projects and monitoring of such projects and expenditure incurred thereon;
- (vi) formulation of the criteria for allocation of the funds for such projects which are required to be implemented by the National Highways Authority of India and also for other projects for the development and maintenance of the national highways;
- (vii) allocation of share of funds to each State and Union territory specified in the First Schedule to the Constitution;
- (viii) allocation of —
  - (a) fifty per cent. of the cess on high speed diesel oil for the development of rural roads in such manner as may be prescribed; and
  - (b) the balance amount of fifty per cent. of cess on high speed diesel oil and the entire cess collected on petrol as follows:—
    - (i) an amount equal to fifty seven and one-half per cent. of such sum for the development and maintenance of national highways;
    - (ii) an amount equal to twelve and one-half per cent. for the construction of road either under or over the railways by means of a bridge and erection of safety works at unmanned rail-road crossings; and
    - (iii) the balance thirty per cent. on development and maintenance of roads other than national highways and out of this amount, ten per cent. that is three per cent. of the total share of State roads shall be kept as reserve by the Central Government for allocation to States for implementation of State road schemes of inter-State and economic importance to be approved by the Central Government in terms of clauses (iii) and (iv) of this section.

**11. (1) The share of the fund to be spent on development and maintenance of roads, other than national highways, as specified under sub-clause (b) of clause (viii) of section 10, after deducting the reserve kept by the Central Government for State road schemes of inter-State and economic importance, shall be allocated to various States and Union territories in such manner as may be decided by the Central Government.**

Functions of  
the Central  
Government.

Administra-  
tion of States';  
share of the  
Fund.

(2) The portion of the fund allocated for expenditure in the various States and Union territories shall be retained by the Central Government until it is actually required for expenditure.

(3) If in the opinion of the Central Government, the Government of any State or the administration of any Union territory has at any time—

(a) failed to take such steps as the Central Government may recommend for the regulation and control of motor vehicles within the State or the Union territory; or

(b) delayed without reasonable cause the application of any portion of the fund allocated or re-allocated, as the case may be, for expenditure within the State or Union territory,

the Central Government may resume the whole or part of any sums which it may have at that time held for expenditure in that State or the Union territory.

(4) All sums resumed by the Central Government from the account of any State Government or Union territory administration as aforesaid shall be re-allocated between the credit accounts of the defaulting and other State Governments and Union territory administrations in the ratio of the main allocation for the financial year preceding the year in which the re-allocation is made.

(5) The balance to the credit of the Fund in respect of any allocation shall not lapse at the end of the financial year.

**Power to make rules.**

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(a) specify the projects in respect of which the funds may be disbursed under section 7;

(b) the manner in which the accounts shall be maintained and the annual statement of accounts may be prepared including the profit and loss account and the balance-sheet under sub-section (1) of section 8;

(c) the manner in which the schemes for development and maintenance of State roads of inter-State and economic importance are to be formulated and sanctioned under section 10;

(d) any other matter for which rule is to be made, or may be, prescribed.

**Rules made under this Act to be laid before Parliament.**

13. 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.

**Provisions relating to existing Central Road Fund.**

14. With effect from the appointed day the Central Road Fund governed by the Parliamentary Resolution dated the 13th May, 1988 (hereafter referred to in this section as the existing Fund) shall be deemed to be the Fund established under this Act and,—

(a) all schemes relating to development and maintenance of national highways and State roads sanctioned under the existing Fund in so far as such schemes are relatable to the schemes under this Act, shall be deemed to be the schemes sanctioned under this Act;

(b) all funds accrued under the existing Fund including assets and liabilities shall be transferred to the Fund established under this Act.

**Repeal and saving.**

15. (1) The Central Road Fund Ordinance, 2000 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 SCHEDULE

(See section 3)

Sl. No	Name of item	Rate of duty
(1)	(2)	(3)
1.	Motor spirit commonly known as petrol	Rupee one per litre
2.	High speed diesel oil	Rupee one per litre

**THE NATIONAL BANK FOR AGRICULTURE AND RURAL  
DEVELOPMENT (AMENDMENT) ACT, 2000**

**No. 55 OF 2000**

**[30th December, 2000.]**

**An Act further to amend the National Bank for Agriculture and Rural Development Act, 1981.**

**BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—**

**Short title and  
commencement.**

**1. (1) This Act may be called the National Bank for Agriculture and Rural Development (Amendment) Act, 2000.**

**(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in Official Gazette, appoint.**

**Amendment of  
long title.**

**2. In the National Bank for Agriculture and Rural Development Bank Act, 1981 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—**

**61 of 1981.**

**\* 1-2-2001 : Vide Notification No. S.O. ... dt. 1-2-2001**

"An Act to establish a development bank to be known as the National Bank for Agriculture and Rural Development for providing and regulating credit and other facilities for the promotion and development of agriculture, small-scale industries, cottage and village industries, handicrafts and other rural crafts and other allied economic activities in rural areas with a view to promoting integrated rural development and securing prosperity of rural areas and for matters connected therewith or incidental thereto."

3. In section 2 of the principal Act, in clause (e), the words "of the Board" shall be omitted.

Amendment of section 2.

4. In section 4 of the principal Act,—

(i) in sub-section (1), in the proviso, for the words "five hundred crores", the words "five thousand crores" shall be substituted;

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

"(2) The capital of the National Bank shall be subscribed to by the Central Government and the Reserve Bank to such extent and in such proportion as may be notified by the Central Government in consultation with the Reserve Bank, from time to time:

Provided that the National Bank may issue capital to such institutions and persons in such manner as may be notified by the Central Government:

Provided further that the combined shareholding of the Central Government and the Reserve Bank shall not at any time be less than fifty-one per cent. of the total subscribed capital."

5. In section 6 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

Amendment of section 6.

"(1) The Board of Directors of the National Bank shall consist of the following, namely:—

(a) a Chairman;

(b) three directors from amongst experts in rural economics, rural development, village and cottage industries, small-scale industries or persons having experience in the working of co-operative banks, regional rural banks or commercial banks or any other matter the special knowledge or professional experience in which is considered by the Central Government as useful to the National Bank;

(c) three directors from out of the directors of the Reserve Bank;

(d) three directors from amongst the officials of the Central Government;

(e) four directors from amongst the officials of the State Governments;

(f) such number of directors elected in the prescribed manner, by shareholders other than the Reserve Bank, the Central Government and other institutions owned or controlled by the Central Government whose names are entered on the register of shareholders of the National Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(i) where the total amount of equity.....two directors;  
share capital issued to such shareholders is  
ten per cent. or less of the total issued equity  
capital

(ii) where the total amount of equity share capital issued to such shareholders is more than ten per cent. but less than twenty-five per cent. of the total issued equity capital three directors; and

(iii) where the total equity share capital issued to such shareholders is twenty-five per cent. or more of the total issued equity capital four directors:

Provided that until the assumption of charge by the elected directors under this clause, the Central Government may at any time nominate such number of directors not exceeding four from amongst persons having special knowledge of, and professional experience in, agricultural science, technology, economics, banking, co-operatives, law, rural finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the National Bank for carrying out its functions; and

(g) a Managing Director.

(2) The Chairman and other directors, excluding the directors referred to in clause (f), shall be appointed by the Central Government in consultation with the Reserve Bank:

Provided that no such consultation shall be necessary in the case of directors appointed under clause (d) of sub-section (1).

**6. In section 7 of the principal Act,—**

(i) in sub-section (1), the words "and shall be eligible for re-appointment" shall be added at the end;

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

"(1B) In the case of a vacancy in the office of the Chairman, the Managing Director shall perform the functions and duties of the Chairman during such vacancy.";

(iii) in sub-section (2), the words "and thereafter until his successor enters upon his office" shall be omitted;

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

"(4) The Chairman and any other director, who is not an officer of the Central Government or a State Government or an officer of the Reserve Bank or any body or corporation established by or under any Central Act or any State Act and owned or controlled by such Government, shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the National Bank."

Amendment of  
section 8.

7. In section 8 of the principal Act, in sub-section (1), in clause (a), the words "and shall be eligible for re-appointment" shall be added at the end.

Amendment of  
section 12.

8. In section 12 of the principal Act, in sub-section (2), after the words "unable to attend any meeting," the words "the Managing Director and in the absence of both, the Chairman and the Managing Director," shall be inserted.

Amendment of  
section 14.

9. In section 14 of the principal Act, in sub-section (1), for the words "The Board shall", the words "The Board may" shall be substituted.

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

(i) for clause (a), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 26th day of September, 2000, namely:—

“(a) issue and sell bonds, debentures and other financial instruments with or without guarantee of the Central Government on such terms and conditions as may be approved by the Board;”;

(ii) for clauses (b) to (e), the following clauses shall be substituted, namely:—

“(b) borrow money from the Reserve Bank repayable on demand or otherwise on such terms and conditions including the terms relating to security and purposes as may be specified by the Reserve Bank;

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

(d) accept from the Central Government, a State Government, a local authority, a State land development bank, a State co-operative bank or a scheduled bank or any person or body, whether incorporated or not, deposits repayable on such terms as the National Bank may, with the approval of the Reserve Bank, fix; and

(e) receive gifts, grants, donations or benefactions from the Central Government or any State Government or any other source.”.

## 11. For section 20 of the principal Act, the following section shall be substituted, namely:—

42 of 1999.

“20. Notwithstanding anything contained in the Foreign Exchange Management Act, 1999, or in any other law for the time being in force, relating to foreign exchange, the National Bank may borrow, with the previous approval of the Central Government and in consultation with the Reserve Bank, foreign currency from any bank or financial institution in India or elsewhere, for granting loans and advances or for utilising such currency for any other purpose specified under the provisions of this Act.”.

## 12. In section 25 of the principal Act, in sub-section (I), in clause (d), after the words “by way of refinance”, the words “or otherwise” shall be inserted.

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

“26. The National Bank may subscribe to, or purchase or sell stocks, shares, bonds or debentures of, or invest in the securities of, any institution or class of institutions concerned with agriculture and rural development which the Board may approve subject to such terms and conditions as it may deem fit.”.

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

“27A. The National Bank may make loans and advances to any State Government or a corporation owned or controlled by the State Government or to any other person or class of persons, as may be approved by the Board, repayable on the expiry of a fixed period not exceeding twenty-five years from the date of making of such loans and advances and subject to such terms and conditions, as may be approved by the Board, for the purpose of development of infrastructure facilities for promotion of agriculture and rural development.”.

Amendment of  
section 19.Substitution  
of new  
section for  
section 20.Borrowings in  
foreign  
currency.Amendment of  
section 25.Substitution of  
new section  
for section 26.Purchase and  
sale of shares.Insertion of  
new section  
27A.Loans to State  
Government,  
undertakings,  
etc.

Amendment of  
section 28.

**15.** In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no guarantee or security referred to therein shall be required in cases in which the Board, for reasons to be recorded in writing, decides that no such security or guarantee is necessary in respect of a scheduled bank, a State co-operative bank or any person or class of persons, specifically approved by the Board or in respect of any scheme or class of schemes, having regard to the nature and scope of the scheme or schemes for which accommodation is proposed to be granted by the National Bank.”.

Amendment of  
section 29.

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

“(3) Notwithstanding anything to the contrary contained in any law for the time being in force, where a liquidator is appointed for winding up a borrowing institution, it shall be the duty of the liquidator to forthwith pass on to the National Bank the sums recovered by the borrowing institution or the liquidator, as the case may be, in repayment or realisation of the loans and advances refinanced either wholly or partly by the National Bank to the extent the refinance is outstanding and the National Bank shall be entitled to enforce the securities held by the borrowing institution in trust for the National Bank as if every reference to the borrowing institution in any contract, security or other document obtained by borrowing institution is a reference to the National Bank and accordingly, the National Bank shall be entitled to recover the balance sums due under such loans and advances from the constituents of borrowing institution and any discharge given by the National Bank to such constituent shall be a valid discharge and the liquidator shall, on demand made by the National Bank, deliver to it all such contracts, securities and other documents, for due enforcement thereof by the National Bank.

*Explanation.*—For the purposes of this sub-section, the word “liquidator” shall include liquidator or a provisional liquidator or any person or authority entrusted with the duty of liquidating the borrowing institution.’.

Substitution of  
new sections  
for section 30.

**17.** For section 30 of the principal Act, the following sections shall be substituted, namely:—

Direct loans.

“30. The National Bank may, in exceptional circumstances to be recorded in writing by the Board, by itself or in association with other financial institutions or scheduled banks, make loans and advances, otherwise than by way of refinance to any person or class of persons or body corporate, on such terms and conditions, including security and repayable within such period not exceeding twenty-five years, as the National Bank may deem fit.

Bills  
rediscounting.

30A. The National Bank may rediscount bills of exchange and promissory notes made, drawn, accepted or endorsed by any company or body corporate concerned with agriculture and rural development presented by a scheduled bank, a State co-operative bank, State land development bank, regional rural bank or any other institution or class of institutions approved by the Board.”.

Substitution of  
new section  
for section 32.

**18.** For section 32 of the principal Act, the following section shall be substituted, namely:—

Issue of  
guarantees.

“32. The National Bank may guarantee, subject to such directions as may be issued by the Board, from time to time, deferred payments in connection with the purchase of capital goods or for any other purpose for giving effect to the provisions of this Act, due from any person or class of persons, whether incorporated or not.”.

19. In section 33 of the principal Act, for the words "under this Chapter with a borrowing institution", the words "under this Act with a borrower" shall be substituted.

Amendment of  
section 33.

20. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution of  
new section  
for section 34.

"34. Notwithstanding anything to the contrary contained in any agreement or arrangement, the National Bank may, by notice in writing, require any borrower or assisted person to whom it has granted any loan or other financial assistance including grants, to discharge forthwith in full, the loan or other financial assistance, including grants, as the case may be,—

Power to call  
for repayment  
before agreed  
period.

(a) if it appears to the National Bank that false or misleading information in any material particulars was given in the application for the loan or other financial assistance; or

(b) if the borrower or the person has failed to comply with any of the terms of the contract or arrangement with the National Bank in the matter of loan or other financial assistance, including grants; or

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

(d) if for any reason it is necessary so to do, to protect the interests of the National Bank."

21. In section 35 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of  
section 35.

"(1) The National Bank shall have free access to all such records of a borrower seeking to avail of any credit or other facilities from the National Bank under this Act and also to all such records of any person seeking to avail of any credit or other facilities from such borrower, perusal whereof may appear to the National Bank to be necessary in connection with the providing of finance or other assistance to such borrower or the refinancing of any loan or advance made to such person by the borrower.".

22. After section 37 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
37A.

'37A. (1) The National Bank shall not make any loans or advances under section 30 or make any grants under this Act to any person or body of persons of which any of the directors of the National Bank is a proprietor, partner, director, manager, agent, employee or guarantor or in which one or more directors of the National Bank together hold substantial interest:

Provided that this sub-section shall not apply to any borrower if any director of the National Bank—

(a) is nominated as director of the Board of such borrower by the Government or a Government company as defined in section 617 of the Companies Act, 1956 or by a corporation established by any other law;

(b) is elected on the Board of such borrower by virtue of shares held in the borrower organisation by the Government, or a Government company as defined in section 617 of the Companies Act, 1956 or by a corporation established by any other law,

by reason only of such nomination or election, as the case may be.

1 of 1956.

*Explanation.*—For the purposes of this sub-section, “substantial interest”, in relation to a borrower, means the beneficial interest held by one or more of the directors of the National Bank or by any relative of such director as defined in clause (41) of section 2 of the Companies Act, 1956, whether singly or taken together, in the shares of the borrower, 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 borrower, whichever is lesser.

## (2) The provisions of sub-section (1)—

(a) shall not apply to any borrower, if the National Bank is satisfied that it is necessary in the public interest to enter into business with that borrower and entering into any kind of business with such borrower shall be in accordance with and subject to such conditions and limitations, as may be approved by the Board;

(b) shall not apply to any transaction relating to the business entered into prior to the commencement of the National Bank for Agriculture and Rural Development (Amendment) Act, 2000, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(c) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.'

## 23. In section 38 of the principal Act,—

(a) in clause (iii), for the words “make grants”, the words “make loans or advances or grants” shall be substituted;

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

“(iv) may provide technical, legal, financial, marketing and administrative assistance to any person engaged in agriculture and rural development activities;

(v) may provide consultancy services in the field of agriculture and rural development and other related matters in or outside India, on such terms and against such remuneration, as may be agreed upon;

(vi) may perform the functions entrusted to or required of the National Bank by any other law for the time being in force; and

(vii) do any other kind of business or undertake any other kind of activity which the Central Government or the Reserve Bank may authorise.”

## 24. After section 38 of the principal Act, the following sections shall be inserted, namely:—

“38A. The National Bank may, in consultation with the Reserve Bank, promote, form or manage or associate itself in promotion, formation or management of companies, subsidiaries, affiliates, societies, trusts or such other association of persons, as it may deem fit, for the purpose of carrying out its functions under this Act.

## 38B. Notwithstanding anything contained in this Act, the National Bank may—

(a) create one or more trusts and transfer loans and advances granted by it, with or without the securities, to such trusts, for consideration;

(b) set aside loans or advances held by the National Bank and issue and sell securities based upon such loans or advances so set aside in the form of debt obligations, trust certificates of beneficial interest or other instruments, by whatever name called, and act as a trustee for the holders of such securities.

Amendment  
of section 38.Insertion of  
new sections  
38A to 38C.Promotion of  
subsidiaries.Securitisation  
of debt.

16 of 1908.

38C. Notwithstanding anything contained in sub-section (1) of section 17 of the Registration Act, 1908,—

(a) any instrument in the form of debt obligations or trust certificate of beneficial interest or any other instrument, by whatsoever name called, issued by the National Bank or the trust created by it to securitise the loans granted by it and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property; or

(b) any transfer of such instruments referred to in clause (a), shall not require compulsory registration.”.

25. For section 40 of the principal Act, the following section shall be substituted, namely:—

“40. (1) The National Bank may invest its funds in promissory notes, stocks or securities of the Central Government or keep the moneys deposited with the Reserve Bank or with any agency of the Reserve Bank or with a State co-operative bank or a scheduled bank.

(2) Notwithstanding anything contained in sub-section (1) or section 30A, the National Bank may, for beneficial investment of its surplus funds, rediscount bills of exchange or promissory notes arising out of *bona fide* trade and commercial transactions and also lend repayable at call or short notice to a scheduled bank or any financial institution approved by the Reserve Bank, or invest in certificates of deposit and other instruments or schemes as may be approved by the Board.”.

26. In section 44 of the principal Act, in sub-section (2), for the words “making of grants”, the words “making of loans or advances or grants” shall be substituted.

27. In section 45 of the principal Act, for the words “and such other Funds”, the words “and other Funds” shall be substituted.

28. In section 47 of the principal Act, for clause (ii), the following clause shall be substituted, namely:—

“(ii) after the expiry of the said period of fifteen years, the Board shall, after making provision for the Fund referred to in clause (i), disburse or spend the balance of the surplus in such manner as may be approved by the Board.”.

29. After section 52 of the principal Act, the following section shall be inserted, namely:—

“52A. (1) Where any agreement entered into by the National Bank with a company or a body corporate while granting loans and advances, provides for the appointment by the National Bank of one or more directors of such company or body corporate, 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 or body corporate, 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 National Bank in pursuance of the agreement as aforesaid.

(2) Any director appointed as aforesaid shall—

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

Exemption  
from  
compulsory  
registration.

Substitution of  
new section  
for section 40.

Deposits and  
investments.

Amendment of  
section 44.

Amendment of  
section 45.

Amendment of  
section 47.

Insertion of  
new section  
52A.

Agreement  
with National  
Bank on  
appointment  
of directors to  
prevail.

1 of 1956.

- (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.”.

Amendment  
of section 60.

30. In section 60 of the principal Act, in sub-section (2),—

- (i) for clause (e), the following clause shall be substituted, namely:—  
“(e) the manner of election of directors under clause (f) of sub-section (1) of section 6;”;
- (ii) clauses (f) and (h) shall be omitted.

Repeal and  
saving.

31. (1) The National Bank for Agriculture and Rural Development (Amendment) Ordinance, 2000 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.

Ord.  
4 of 2000.

## THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

### ARRANGEMENT OF SECTIONS

#### CHAPTER I PRELIMINARY

##### **SECTIONS**

1. Short title, extent and commencement.
2. Definitions.
3. Continuation of inquiry in respect of juvenile who has ceased to be a juvenile.

#### CHAPTER II

##### JUVENILE IN CONFLICT WITH LAW

4. Juvenile Justice Board.
5. Procedure, etc., in relation to Board.
6. Powers of Juvenile Justice Board.
7. Procedure to be followed by a Magistrate not empowered under the Act.
8. Observation homes.
9. Special homes.
10. Apprehension of juvenile in conflict with law.
11. Control of custodian over juvenile.
12. Bail of juvenile.
13. Information to parent, guardian or probation officer.
14. Inquiry by Board regarding juvenile.
15. Order that may be passed regarding juvenile.
16. Order that may not be passed against juvenile.
17. Proceeding under Chapter VIII of the Code of Criminal Procedure not competent against juvenile.
18. No joint proceeding of juvenile and person not a juvenile.
19. Removal of disqualification attaching to conviction.
20. Special provision in respect of pending cases.
21. Prohibition of publication of name, etc., of juvenile involved in any proceeding under the Act.
22. Provision in respect of escaped juvenile.
23. Punishment for cruelty to juvenile or child.
24. Employment of juvenile or child for begging.
25. Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.
26. Exploitation of juvenile or child employee.
27. Special offences.
28. Alternative punishment.

**CHAPTER III****CHILD IN NEED OF CARE AND PROTECTION****SECTIONS**

29. Child Welfare Committee.
30. Procedure, etc., in relation to Committee.
31. Powers of Committee.
32. Production before Committee.
33. Inquiry.
34. Children's homes.
35. Inspection.
36. Social auditing.
37. Shelter homes.
38. Transfer.
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**CHAPTER IV****REHABILITATION AND SOCIAL REINTEGRATION**

40. Process of rehabilitation and social reintegration.
41. Adoption.
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46. Attendance of parent or guardian of juvenile or child.
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48. Committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal.
49. Presumption and determination of age.
50. Sending a juvenile or child outside jurisdiction.
51. Reports to be treated as confidential.
52. Appeals.
53. Revision.
54. Procedure in inquiries, appeals and revision proceedings.
55. Power to amend orders.
56. Power of competent authority to discharge and transfer juvenile or child.
57. Transfer between children's homes, under the Act, and juvenile homes, of like nature in different parts of India.
58. Transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs.
59. Release and absence of juvenile or child on placement.
60. Contribution by parents.

SECTIONS

61. Fund.
62. Central, State, district and city advisory boards.
63. Special juvenile police unit.
64. Juvenile in conflict with law undergoing sentence at commencement of this Act.
65. Procedure in respect of bonds.
66. Delegation of powers.
67. Protection of action taken in good faith.
68. Power to make rules.
69. Repeal and savings.
70. Power to remove difficulties.

**THE JUVENILE JUSTICE (CARE AND PROTECTION OF  
CHILDREN) ACT, 2000**

**No. 56 OF 2000**

*[30th December, 2000.]*

An Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

WHEREAS the Constitution has, in several provisions, including clause (3) of article 15, clauses (e) and (f) of article 39, articles 45 and 47, impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the General Assembly of the United Nations has adopted the Convention on the Rights of the Child on the 20th November, 1989;

AND WHEREAS, the Convention on the Rights of the Child has prescribed a set of standards to be adhered to by all State parties in securing the best interests of the child;

AND WHEREAS, the Convention on the Rights of the Child emphasises social reintegration of child victims, to the extent possible, without resorting to judicial proceedings;

AND WHEREAS, the Government of India has ratified the Convention on the 11th December, 1992.

AND WHEREAS, it is expedient to re-enact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), and all other relevant international instruments.

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

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2000. /

Short title, extent and commencement.

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

Why ?

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

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

Definitions.

(a) "advisory board" means a Central or a State advisory board or a district and city level advisory board, as the case may be, constituted under section 62;

(b) "begging" means—

(i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, whether under any pretence;

(ii) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(c) "Board" means a Juvenile Justice Board constituted under section 4;

(d) "child in need of care and protection" means a child—

(i) who is found without any home or settled place or abode and without any ostensible means of subsistence,

(ii) who resides with a person (whether a guardian of the child or not) and such person—

(a) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or

(b) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person,

(iii) who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases having no one to support or look after,

(iv) who has a parent or guardian and such parent or guardian is unfit or incapacitated to exercise control over the child,

(v) who does not have parent and no one is willing to take care of or whose parents have abandoned him or who is missing and run away child and whose parents cannot be found after reasonable inquiry,

(vi) who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts,

\* 1-4-2001 : Vide notification No. S.O. 177(E), dt. 28-2-2001.

(vii) who is found vulnerable and is likely to be inducted into drug abuse or trafficking;

(viii) who is being or is likely to be abused for unconscionable gains;

(ix) who is victim of any armed conflict, civil commotion or natural calamity;

(e) "children's home" means an institution established by a State Government or by voluntary organisation and certified by that Government under section 34;

(f) "Committee" means a Child Welfare Committee constituted under section 29;

(g) "competent authority" means in relation to children in need of care and protection a Committee and in relation to juveniles in conflict with law a Board;

(h) "fit institution" means a governmental or a registered non-governmental organisation or a voluntary organisation prepared to own the responsibility of a child and such organisation is found fit by the competent authority;

(i) "fit person" means a person, being a social worker or any other person, who is prepared to own the responsibility of a child and is found fit by the competent authority to receive and take care of the child;

(j) "guardian", in relation to a child, means his natural guardian or any other person having the actual charge or control over the child and recognised by the competent authority as a guardian in course of proceedings before that authority;

(k) "juvenile" or "child" means a person who has not completed eighteenth year of age;

(l) "juvenile in conflict with law" means a juvenile who is alleged to have committed an offence;

(m) "local authority" means Panchayats at the village and Zila Parishad at the district level and shall also include a Municipal Committee or Corporation or a Cantonment Board or such other body legally entitled to function as local authority by the Government;

(n) "narcotic drug" and "psychotropic substance" shall have the meanings respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985;

61 of 1985.

(o) "observation home" means a home established by a State Government or by a voluntary organisation and certified by that State Government under section 8 as an observation home for the juvenile in conflict with law;

(p) "offence" means an offence punishable under any law for the time being in force;

(q) "place of safety" means any place or institution (not being a police lock-up or jail), the person incharge of which is willing temporarily to receive and take care of the juvenile and which, in the opinion of the competent authority, may be a place of safety for the juvenile;

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

(s) "probation officer" means an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958;

20 of 1958.

(t) "public place" shall have the meaning assigned to it in the Immoral Traffic (Prevention) Act, 1956;

104 of 1956.

(u) "shelter home" means a home or a drop-in-centre set up under section 37;

(v) "special home" means an institution established by a State Government or by a voluntary organisation and certified by that Government under section 9;

(w) "special juvenile police unit" means a unit of the police force of a State designated for handling of juveniles or children under section 63;

(x) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(y) all words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973, shall have the meanings respectively assigned to them in that Code.

3. Where an inquiry has been initiated against a juvenile in conflict with law or a child in need of care and protection and during the course of such inquiry the juvenile or the child ceases to be such, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a juvenile or a child.

Continuation  
of inquiry in  
respect of  
juvenile who  
has ceased to  
be a juvenile.

## CHAPTER II

### JUVENILE IN CONFLICT WITH LAW

2 of 1974.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, by notification in the Official Gazette, constitute for a district or a group of districts specified in the notification, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this Act.

Juvenile  
Justice Board.

2 of 1974.

(2) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class and the Magistrate on the Board shall be designated as the principal Magistrate.

(3) No Magistrate shall be appointed as a member of the Board unless he has special knowledge or training in child psychology or child welfare and no social worker shall be appointed as a member of the Board unless he has been actively involved in health, education, or welfare activities pertaining to children for at least seven years.

(4) The term of office of the members of the Board and the manner in which such member may resign shall be such as may be prescribed.

(5) The appointment of any member of the Board may be terminated after holding inquiry, by the State Government, if—

(i) he has been found guilty of misuse of power vested under this Act,

(ii) 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,

(iii) he fails to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

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

Procedure,  
etc., in  
relation to  
Board.

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not sitting.

(3) A Board may act notwithstanding the absence of any member of the Board, and no order made by the Board shall be invalid by reason only of the absence of any member during any stage of proceedings:

Provided that there shall be at least two members including the principal Magistrate present at the time of final disposal of the case.

(4) In the event of any difference of opinion among the members of the Board in the interim or final disposition, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the principal Magistrate shall prevail.

**Powers of Juvenile Justice Board.**

6. (1) Where a Board has been constituted for any district or a group of districts, such Board shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings under this Act relating to juvenile in conflict with law.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Court of Session, when the proceeding comes before them in appeal, revision or otherwise.

**Procedure to be followed by a Magistrate not empowered under the Act.**

7. (1) When any Magistrate not empowered to exercise the powers of a Board under this Act is of the opinion that a person brought before him under any of the provisions of this Act (other than for the purpose of giving evidence), is a juvenile or the child, he shall without any delay record such opinion and forward the juvenile or the child and the record of the proceeding to the competent authority having jurisdiction over the proceeding.

(2) The competent authority to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the juvenile or the child had originally been brought before it.

**Observation homes.**

8. (1) Any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, observation homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them under this Act, it may certify such institution as an observation home for the purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a juvenile, and the circumstances under which, and the manner in which, the certification of an observation home may be granted or withdrawn.

(4) Every juvenile who is not placed under the charge of parent or guardian and is sent to an observation home shall be initially kept in a reception unit of the observation home for preliminary inquiries, care and classification for juveniles according to his age group, such as seven to twelve years, twelve to sixteen years and sixteen to eighteen years, giving due considerations to physical and mental status and degree of the offence committed, for further induction into observation home.

**Special homes.**

9. (1) Any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, special homes in every district or a group of districts, as may be required for reception and rehabilitation of juvenile in conflict with law under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the reception of juvenile in conflict with law to be sent there under this Act, it may certify such institution as a special home for the purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management of special homes, including the standards and various types of services to be provided by them which are necessary for re-socialisation of a juvenile, and the circumstances under which, and the manner in which, the certification of a special home may be granted or withdrawn.

(4) The rules made under sub-section (3) may also provide for the classification and separation of juvenile in conflict with law on the basis of age and the nature of offences committed by them and his mental and physical status.

**10.** (1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer who shall immediately report the matter to a member of the Board.

Apprehension  
of juvenile in  
conflict with  
law.

(2) The State Government may make rules consistent with this Act,—

(i) to provide for persons through whom (including registered voluntary organisations) any juvenile in conflict with law may be produced before the Board;

(ii) to provide the manner in which such juvenile may be sent to an observation home.

**11.** Any person in whose charge a juvenile is placed in pursuance of this Act shall, while the order is in force have the control over the juvenile as he would have if he were his parents, and shall be responsible for his maintenance, and the juvenile shall continue in his charge for the period stated by competent authority, notwithstanding that he is claimed by his parents or any other person.

Control of  
custodian over  
juvenile.

2 of 1974.

**12.** (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

Bail of  
juvenile.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

**13.** Where a juvenile is arrested, the officer incharge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after the arrest, inform—

Information  
to parent,  
guardian or  
probation  
officer.

(a) the parent or guardian of the juvenile, if he can be found of such arrest and direct him to be present at the Board before which the juvenile will appear; and

(b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.

**14.** Where a juvenile having been charged with the offence is produced before a Board, the Board shall hold the inquiry in accordance with the provisions of this Act and may make such order in relation to the juvenile as it deems fit:

Inquiry by  
Board  
regarding  
juvenile.

Provided that an inquiry under this section shall be completed within a period of four months from the date of its commencement, unless the period is extended by the Board having regard to the circumstances of the case and in special cases after recording the reasons in writing for such extension.

Order that  
may be passed  
regarding  
juvenile.

**15. (1)** Where a Board is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Board may, if it thinks so fit,—

- (a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile;
- (b) direct the juvenile to participate in group counselling and similar activities;
- (c) order the juvenile to perform community service;
- (d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;
- (e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;
- (f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;
- (g) make an order directing the juvenile to be sent to a special home,—
  - (i) in the case of juvenile, over seventeen years but less than eighteen years of age for a period of not less than two years;
  - (ii) in case of any other juvenile for the period until he ceases to be a juvenile:

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

(2) The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognised voluntary organisation or otherwise, and shall take into consideration the findings of such report before passing an order.

(3) Where an order under clause (d), clause (e) or clause (f) of sub-section (1) is made, the Board may, if it is of opinion that in the interests of the juvenile and of the public, it is expedient so to do, in addition make an order that the juvenile in conflict with law shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the juvenile in conflict with law:

Provided that if at any time afterwards it appears to the Board on receiving a report from the probation officer or otherwise, that the juvenile in conflict with law has not been of good behaviour during the period of supervision or that the fit institution under whose care the juvenile was placed is no longer able or willing to ensure the good behaviour and well-being of the juvenile it may, after making such inquiry as it deems fit, order the juvenile in conflict with law to be sent to a special home.

(4) The Board shall while making a supervision order under sub-section (3), explain to the juvenile and the parent, guardian or other fit person or fit institution, as the case may

be, under whose care the juvenile has been placed, the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to the juvenile, the parent, guardian or other fit person or fit institution, as the case may be, the sureties, if any, and the probation officer.

**16. (1)** Notwithstanding anything to the contrary contained in any other law for the time being in force, no juvenile in conflict with law shall be sentenced to death or life imprisonment, or committed to prison in default of payment of fine or in default of furnishing security:

Provided that where a juvenile who has attained the age of sixteen years has committed an offence and the Board is satisfied that the offence committed is of so serious in nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other juvenile in a special home to send him to such special home and that none of the other measures provided under this Act is suitable or sufficient, the Board may order the juvenile in conflict with law to be kept in such place of safety and in such manner as it thinks fit and shall report the case for the order of the State Government.

(2) On receipt of a report from a Board under sub-section (1), the State Government may make such arrangement in respect of the juvenile as it deems proper and may order such juvenile to be kept under protective custody at such place and on such conditions as it thinks fit:

Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment to which the juvenile could have been sentenced for the offence committed.

2 of 1974.

**17.** Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 no proceeding shall be instituted and no order shall be passed against the juvenile under Chapter VIII of the said Code.

2 of 1974.

**18. (1)** Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 or in any other law for the time being in force, no juvenile shall be charged with or tried for any offence together with a person who is not a juvenile.

2 of 1974.

(2) If a juvenile is accused of an offence for which under section 223 of the Code of Criminal Procedure, 1973 or any other law for the time being in force, such juvenile and any person who is not a juvenile would, but for the prohibition contained in sub-section (1), have been charged and tried together, the Board taking cognizance of that offence shall direct separate trials of the juvenile and the other person.

**19. (1)** Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.

**20.** Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence.

Order that  
may not be  
passed against  
juvenile.

Proceeding  
under Chapter  
VIII of the  
Code of  
Criminal  
Procedure not  
competent  
against  
juvenile.

No joint  
proceeding of  
juvenile and  
person not a  
juvenile.

Removal of  
disqualification  
attaching to  
conviction.

Special  
provision in  
respect of  
pending cases.

Prohibition of publication of name, etc., of juvenile involved in any proceeding under the Act.

**21. (1)** No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published:

Provided that for reasons to be recorded in writing the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile.

**(2)** Any person contravening the provisions of sub-section (1) shall be punishable with fine, which may extend to one thousand rupees.

Provision in respect of escaped juvenile.

**22.** Notwithstanding anything to the contrary contained in any other law for the time being in force, any police officer may take charge without warrant of a juvenile in conflict with law who has escaped from a special home or an observation home or from the care of a person under whom he was placed under this Act, and shall be sent back to the special home or the observation home or that person, as the case may be; and no proceeding shall be instituted in respect of the juvenile by reason of such escape, but the special home, or the observation home or the person may, after giving the information to the Board which passed the order in respect of the juvenile, take such steps in respect of the juvenile as may be deemed necessary under the provisions of this Act.

Punishment for cruelty to juvenile or child.

**23.** Whoever, having the actual charge of or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.

Employment of juvenile or child for begging.

**24. (1)** Whoever, employs or uses any juvenile or the child for the purpose or causes any juvenile to beg shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

**(2)** Whoever, having the actual charge of, or control over, a juvenile or the child abets the commission of the offence punishable under sub-section (1), shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.

**25.** Whoever gives, or causes to be given, to any juvenile or the child any intoxicating liquor in a public place or any narcotic drug or psychotropic substance except upon the order of duly qualified medical practitioner or in case of sickness shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Exploitation of juvenile or child employee.

**26.** Whoever ostensibly procures a juvenile or the child for the purpose of any hazardous employment keeps him in bondage and withholds his earnings or uses such earning for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Special offences.

**27.** The offences punishable under sections 23, 24, 25 and 26 shall be cognizable.

Alternative punishment.

**28.** Where an act or omission constitute an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offences shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

### CHAPTER III

#### CHILD IN NEED OF CARE AND PROTECTION

**29.** (1) The State Government may, by notification in Official Gazette, constitute for every district or group of districts, specified in the notification, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.

Child welfare Committee.

(2) The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.

(3) The qualifications of the Chairperson and the members, and the tenure for which they may be appointed shall be such as may be prescribed.

(4) The appointment of any member of the Committee may be terminated, after holding inquiry, by the State Government, if—

(i) he has been found guilty of misuse of power vested under this Act;

(ii) 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;

(iii) he fails to attend the proceedings of the Committee for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

2 of 1974.

(5) The Committee shall function as a Bench of Magistrates and shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.

Procedure, etc., in relation to Committee.

**30.** (1) The Committee shall meet at such times and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(2) A child in need of care and protection may be produced before an individual member for being placed in safe custody or otherwise when the Committee is not in session.

(3) In the event of any difference of opinion among the members of the Committee at the time of any interim decision, the opinion of the majority shall prevail but where there is no such majority the opinion of the Chairperson shall prevail.

(4) Subject to the provisions of sub-section (1), the Committee may act, notwithstanding the absence of any member of the Committee, and no order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding.

**31.** (1) The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.

Powers of Committee,

(2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

**32.** (1) Any child in need of care and protection may be produced before the Committee by one of the following persons—

Production before Committee.

(i) any police officer or special juvenile police unit or a designated police officer;

(ii) any public servant;

(iii) childline, a registered voluntary organisation or by such other voluntary organisation or an agency as may be recognised by the State Government;

(iv) any social worker or a public spirited citizen authorised by the State Government; or

(v) by the child himself.

(2) The State Government may make rules consistent with this Act to provide for the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry.

**33. (1)** On receipt of a report under section 32, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32, may pass an order to send the child to the children's home for speedy inquiry by a social worker or child welfare officer.

(2) The inquiry under this section shall be completed within four months of the receipt of the order or within such shorter period as may be fixed by the Committee:

Provided that the time for the submission of the inquiry report may be extended by such period as the Committee may, having regard to the circumstances and for the reasons recorded in writing, determine.

(3) After the completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.

**Children's homes.**  
**34. (1)** The State Government may establish and maintain either by itself or in association with the voluntary organisations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

(2) The State Government may, by rules made under this Act, provide for the management of children's homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children's home or recognition to a voluntary organisation may be granted or withdrawn.

**Inspection.**  
**35. (1)** The State Government may appoint inspection committees for the children's homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.

(2) The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, local authority, Committee, voluntary organisations and such other medical experts and social workers as may be prescribed.

**36.** The Central Government or State Government may monitor and evaluate the functioning of the Children's homes at such period and through such persons and institutions as may be specified by that Government.

**Shelter homes.**  
**37. (1)** The State Government may recognise, reputed and capable voluntary organisations and provide them assistance to set up and administer as many shelter homes for juveniles or children as may be required.

(2) The shelter homes referred in sub-section (1) shall function as drop-in-centres for the children in the need of urgent support who have been brought to such homes through such persons as are referred to in sub-section (1) of section 32.

(3) As far as possible, the shelter homes shall have such facilities as may be prescribed by the rules.

**Transfer.**  
**38. (1)** If during the inquiry it is found that the child hails from the place outside the jurisdiction of the Committee, the Committee shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child.

(2) Such juvenile or the child shall be escorted by the staff of the home in which he is lodged originally.

(3) The State Government may make rules to provide for the travelling allowance to be paid to the child.

Inquiry.

**39.** (1) Restoration of and protection to a child shall be the prime objective of any children's home or the shelter home.

Restoration.

(2) The children's home or a shelter home, as the case may be, shall take such steps as are considered necessary for the restoration of and protection to a child deprived of his family environment temporarily or permanently where such child is under the care and protection of a children's home or a shelter home, as the case may be.

(3) The Committee shall have the powers to restore any child in need of care and protection to his parent, guardian, fit person or fit institution, as the case may be, and give them suitable directions.

*Explanation.*—For the purposes of this section "restoration of child" means restoration to—

- (a) parents;
- (b) adopted parents;
- (c) foster parents.

#### CHAPTER IV

##### REHABILITATION AND SOCIAL REINTEGRATION

**40.** The rehabilitation and social reintegration of a child shall begin during the stay of the child in a children's home or special home and the rehabilitation and social reintegration of children shall be carried out alternatively by (i) adoption, (ii) foster care, (iii) sponsorship, and (iv) sending the child to an after-care organisation.

Process of rehabilitation and social reintegration.

**41.** (1) The primary responsibility for providing care and protection to children shall be that of his family.

Adoption.

(2) Adoption shall be resorted to for the rehabilitation of such children as are orphaned, abandoned, neglected and abused through institutional and non-institutional methods.

(3) In keeping with the provisions of the various guidelines for adoption issued from time to time by the State Government, the Board shall be empowered to give children in adoption and carry out such investigations as are required for giving children in adoption in accordance with the guidelines issued by the State Government from time to time in this regard.

(4) The children's homes or the State Government run institutions for orphans shall be recognised as an adoption agencies both for scrutiny and placement of such children for adoption in accordance with the guidelines issued under sub-section (3).

(5) No child shall be offered for adoption—

(a) until two members of the Committee declare the child legally free for placement in the case of abandoned children,

(b) till the two months period for reconsideration by the parent is over in the case of surrendered children, and

(c) without his consent in the case of a child who can understand and express his consent.

(6) The Board may allow a child to be given in adoption—

(a) to a single parent, and

(b) to parents to adopt a child of same sex irrespective of the number of living biological sons or daughters.

Foster care.

**42. (1)** The foster care may be used for temporary placement of those infants who are ultimately to be given for adoption.

(2) In foster care, the child may be placed in another family for a short or extended period of time, depending upon the circumstances where the child's own parent usually visit regularly and eventually after the rehabilitation, where the children may return to their own homes.

(3) The State Government may make rules for the purposes of carrying out the scheme of foster care programme of children.

Sponsorship.

**43. (1)** The sponsorship programme may provide supplementary support to families, to children's homes and to special homes to meet medical, nutritional, educational and other needs of the children with a view to improving their quality of life.

(2) The State Government may make rules for the purposes of carrying out various schemes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship.

After-care organisation.

**44.** The State Government may, by rules made under this Act, provide—

(a) for the establishment or recognition of after-care organisations and the functions that may be performed by them under this Act;

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

(c) for the preparation or submission of a report by the probation officer or any other officer appointed by that Government in respect of each juvenile or the child prior to his discharge from a special home, children's home, regarding the necessity and nature of after-care of such juvenile or of a child, the period of such after-care, supervision thereof and for the submission of report by the probation officer or any other officer appointed for the purpose, on the progress of each juvenile or the child;

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

(e) for such other matters as may be necessary for the purpose of carrying out the scheme of after-care programme for the juvenile or the child:

Provided that any rule made under this section shall not provide for such juvenile or child to stay in the after-care organisation for more than three years:

Provided further that a juvenile or child over seventeen years of age but less than eighteen years of age would stay in the after-care organisation till he attains the age of twenty years.

Linkages and co-ordination.

**45.** The State Government may make rules to ensure effective linkages between various governmental, non-governmental, corporate and other community agencies for facilitating the rehabilitation and social reintegration of the child.

## CHAPTER V

### MISCELLANEOUS

Attendance of parent or guardian of juvenile or child.

**46.** Any competent authority before which a juvenile or the child is brought under any of the provisions of this Act, may, whenever it so thinks fit, require any parent or guardian having the actual charge of or control over the juvenile or the child to be present at any proceeding in respect of the juvenile or the child.

**47.** If, at any stage during the course of an inquiry, a competent authority is satisfied that the attendance of the juvenile or the child is not essential for the purpose of inquiry, the competent authority may dispense with his attendance and proceed with the inquiry in the absence of the juvenile or the child.

Dispensing  
with attendance  
of juvenile or  
child.

**48. (1)** When a juvenile or the child who has been brought before a competent authority under this Act, is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the competent authority may send the juvenile or the child to any place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

Commital to  
approved place  
of juvenile or  
child suffering  
from  
dangerous  
diseases and  
his future  
disposal.

**(2)** Where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialised referral services or under the relevant laws as such.

**49. (1)** Where it appears to a competent authority that person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile or the child, the competent authority shall make due inquiry so as to the age of that person and for that purpose shall take such evidence as may be necessary (but not an affidavit) and shall record a finding whether the person is a juvenile or the child or not, stating his age as nearly as may be.

Presumption  
and  
determination  
of age.

**(2)** No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile or the child, and the age recorded by the competent authority to be the age of person so brought before it, shall for the purpose of this Act, be deemed to be the true age of that person.

**50.** In the case of a juvenile or the child, whose ordinary place of residence lies outside the jurisdiction of the competent authority before which he is brought, the competent authority may, if satisfied after due inquiry that it is expedient so to do, send the juvenile or the child back to a relative or other person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him, notwithstanding that such place of residence is outside the jurisdiction of the competent authority; and the competent authority exercising jurisdiction over the place to which the juvenile or the child is sent shall in respect of any matter arising subsequently have the same powers in relation to the juvenile or the child as if the original order had been passed by itself.

Sending a  
juvenile or  
child outside  
jurisdiction.

**51.** The report of the probation officer or social worker considered by the competent authority shall be treated as confidential:

Reports to be  
treated as  
confidential.

Provided that the competent authority may, if it so thinks fit, communicate the substance thereof to the juvenile or the child or his parent or guardian and may give such juvenile or the child, parent or guardian an opportunity of producing such evidence as may be relevant to the matter stated in the report.

**52. (1)** Subject to the provisions of this section, any person aggrieved by an order made by a competent authority under this Act may, within thirty days from the date of such order, prefer an appeal to the Court of Session:

Appeals.

Provided that the Court of Session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

**(2)** No appeal shall lie from—

**(a)** any order of acquittal made by the Board in respect of a juvenile alleged to have committed an offence; or

**(b)** any order made by a Committee in respect of a finding that a person is not a neglected juvenile.

(3) No second appeal shall lie from any order of the Court of Session passed in appeal under this section.

Revision.

53. The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

Procedure in inquiries, appeals and revision proceedings.

54. (1) Save as otherwise expressly provided by this Act, a competent authority while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973 for trials in summons cases.

2 of 1974.

(2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973.

Power to amend orders.

55. (1) Without prejudice to the provisions for appeal and revision under this Act, any competent authority may, on an application received in this behalf, amend any order as to the institution to which a juvenile or the child is to be sent or as to the person under whose care or supervision a juvenile or the child is to be placed under this Act:

Provided that there shall be at least two members and the parties or its defence present during the course of hearing for passing an amendment in relation to any of its order.

(2) Clerical mistakes in orders passed by a competent authority or errors arising therein from any accidental slip or omission may, at any time, be corrected by the competent authority either on its own motion or on an application received in this behalf.

Power of competent authority to discharge and transfer juvenile or child.

56. The competent authority or the local authority may, notwithstanding anything contained in this Act, at any time, order a child in need of care and protection or a juvenile in conflict with law to be discharged or transferred from one children's home or special home to another, as the case may be, keeping in view the best interest of the child or the juvenile, and his natural place of stay, either absolutely or on such conditions as it may think fit to impose:

Provided that the total period of stay of the juvenile or the child in a children's home or a special home or a fit institution or under a fit person shall not be increased by such transfer.

Transfer between children's homes, under the Act, and juvenile homes, of like nature in different parts of India.

57. The State Government or the local authority may direct any child or the juvenile to be transferred from any children's home or special home outside the State to any other children's home, special home or institution of a like nature with the prior intimation to the local Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.

Transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs.

58. Where it appears to the competent authority that any juvenile or the child kept in a special home or a children's home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy or is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the competent authority may order his removal to a leper asylum or mental hospital or treatment centre for drug addicts or to a place of safety for being kept there for such period not exceeding the period for which he is required to be kept under the order of the competent authority or for such further period as may be certified by the medical officer necessary for the proper treatment of the juvenile or the child.

2 of 1974.

**59.** (1) When a juvenile or the child is kept in a children's home or special home and on a report of a probation officer or social worker or of Government or a voluntary organisation, as the case may be, the competent authority may consider, the release of such juvenile or the child permitting him to live with his parent or guardian or under the supervision of any authorised person named in the order, willing to receive and take charge of the juvenile or the child to educate and train him for some useful trade or calling or to look after him for rehabilitation.

Release and absence of juvenile or child on placement.

(2) The competent authority may also permit leave of absence to any juvenile or the child, to allow him, on special occasions like examination, marriage of relatives, death of kith and kin or the accident or serious illness of parent or any emergency of like nature, to go on leave under supervision, for maximum seven days, excluding the time taken in journey.

(3) Where a permission has been revoked or forfeited and the juvenile or the child refuses or fails to return to the home concerned or juvenile to which he was directed so to return, the Board may, if necessary, cause him to be taken charge of and to be taken back to the concerned home.

(4) The time during which a juvenile or the child is absent from a concerned home in pursuance of such permission granted under this section shall be deemed to be part of the time for which he is liable to be kept in the special home:

Provided that when a juvenile has failed to return to the special home on the permission being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is liable to be kept in the institution.

Contribution by parents.

**60.** (1) The competent authority which makes an order for sending a juvenile or the child to a children's home or to a special home or placing the juvenile under the care of a fit person or fit institution may make an order requiring the parent or other person liable to maintain the juvenile or the child to contribute to his maintenance, if able to do so, in the prescribed manner according to income.

(2) The competent authority may direct, if necessary, the payment to be made to poor parent or guardian by the Superintendent or the Project Manager of the home to pay such expenses for the journey of the inmate or parent or guardian or both, from the home to his ordinary place of residence at the time of sending the juvenile as may be prescribed.

Fund.

**61.** (1) The State Government or local authority may create a Fund under such name as it thinks fit for the welfare and rehabilitation of the juvenile or the child dealt with under this Act.

(2) There shall be credited to the Fund such voluntary donations, contributions or subscriptions as may be made by any individual or organisation.

(3) The Fund created under sub-section (1) shall be administered by the State advisory board in such manner and for such purposes as may be prescribed.

Central, State, district and city advisory boards.

**62.** (1) The Central Government or a State Government may constitute a Central or a State advisory board, as the case may be, to advise that Government on matter relating to the establishment and maintenance of the homes, mobilisation of resources, provision of facilities for education, training and rehabilitation of child in need of care and protection and juvenile in conflict with law and co-ordination among the various official and non-official agencies concerned.

(2) The Central or State advisory board shall consist of such persons as the Central Government or the State Government, as the case may be, may think fit and shall include eminent social workers, representatives of voluntary organisation in the field of child welfare corporate sector, academicians, medical professionals and the concerned Department of the State Government.

(3) The district or city level inspection committee constituted under section 35 of this Act shall also function as the district or city advisory boards.

Special  
juvenile police  
unit.

**63. (1)** In order to enable the police officers who frequently or exclusively deal with juveniles or are primarily engaged in the prevention of juvenile crime or handling of the juveniles or children under this Act to perform their functions more effectively, they shall be specially instructed and trained.

**(2)** In every police station at least one officer with aptitude and appropriate training and orientation may be designated as the 'juvenile or the child welfare officer' who will handle the juvenile or the child in co-ordination with the police.

**(3)** Special juvenile police unit, of which all police officers designated as above, to handle juveniles or children will be members, may be created in every district and city to co-ordinate and to upgrade the police treatment of the juveniles and the children.

Juvenile in  
conflict with  
law undergo-  
ing sentence  
at commence-  
ment of this  
Act.

**64.** In any area in which this Act is brought into force, the State Government or the local authority may direct that a juvenile in conflict with law who is undergoing any sentence of imprisonment at the commencement of this Act, shall, in lieu of undergoing such sentence, be sent to a special home or be kept in fit institution in such manner as the State Government or the local authority thinks fit for the remainder of the period of the sentence; and the provisions of this Act shall apply to the juvenile as if he had been ordered by the Board to be sent to such special home or institution or, as the case may be, ordered to be kept under protective care under sub-section (2) of section 16 of this Act.

Procedure in  
respect  
of  
bonds.

**65.** Provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973 shall, as far as may be, apply to bonds taken under this Act. 2 of 1974.

Delegation of  
powers.

**66.** The State Government may, by the general order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be prescribed in the order, be exercisable also by an officer subordinate to that Government or the local authority.

Protection of  
action taken in  
good faith.

**67.** No suit or legal proceedings shall lie against the State Government or voluntary organisation running the home or any officer and the staff appointed in pursuance of this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or order made thereunder.

Power to  
make rules.

**68. (1)** The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. ✓

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

*(i)* the term of office of the members of the Board and the manner in which such member may resign under sub-section (4) of section 4;

*(ii)* the time of the meetings of the Board and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 5;

*(iii)* the management of observation homes including the standards and various types of services to be provided by them and the circumstances in which and the manner in which, the certification of the observation home may be granted or withdrawn and such other matters as are referred to in section 8;

*(iv)* the management of special homes including the standards and various types of services to be provided by them and the circumstances in which and the manner in which, the certification of the special home may be granted or withdrawn and such other matters as are referred to in section 9;

*(v)* persons to whom any juvenile in conflict with law may be produced before the Board and the manner of sending such juvenile, to an observation home under sub-section (2) of section 10;

(vi) matters relating to removal of disqualification attaching to conviction of a juvenile under section 19;

(vii) the qualifications of the Chairperson and members, and the tenure for which they may be appointed under sub-section (3) of section 29;

(viii) the time of the meetings of the Committee and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 30;

(ix) the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry under sub-section (2) of section 32;

(x) the management of children's homes including the standards and nature of services to be provided by them, and the manner in which certification of a children's home or recognition to a voluntary organisation may be granted or withdrawn under sub-section (2) of section 34;

(xi) appointment of inspection committees for children's homes, their tenure and purposes for which inspection committees may be appointed and such other matters as are referred to in section 35;

(xii) facilities to be provided by the shelter homes under sub-section (3) of section 37;

(xiii) for carrying out the scheme of foster care programme of children under sub-section (3) of section 42;

(xiv) for carrying out various schemes of sponsorship of children under sub-section (2) of section 43;

(xv) matters relating to after-care organisation under section 44;

(xvi) for ensuring effective linkages between various agencies for facilitating rehabilitation and social integration of the child under section 45;

(xvii) the purposes and the manner in which the Fund shall be administered under sub-section (3) of section 61;

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

(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 Legislature of that State.

53 of 1986.

**69. (1) The Juvenile Justice Act, 1986 is hereby repealed.**

Repeal and savings.

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

**70. (1) 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 the period of two years from the commencement of this Act.

(2) However, order made under the section shall be laid, as soon as may be after it is made, before each House of Parliament.

## THE CONSTITUTION (EIGHTIETH AMENDMENT) ACT, 2000

[9th June, 2000.]

*An Act further to amend the Constitution of India.*

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

1. This Act may be called the Constitution (Eightieth Amendment) Act, 2000.
2. In article 269 of the Constitution, for clauses (1) and (2), the following clauses shall be substituted, namely:—

‘(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

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

(a) the expression “taxes on the sale or purchase of goods” shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression “taxes on the consignment of goods” shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

Short title.

Amendment  
of article 269.

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.'

Substitution of  
new article for  
article 270.

3. For article 270 of the Constitution, the following article shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:—

Taxes levied  
and distributed  
between the  
Union and the  
States.

'270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, "prescribed" means,—

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.'

4. (1) Article 272 of the Constitution shall be omitted.

(2) Notwithstanding anything contained in sub-section (1), where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has been distributed as grants-in-aid to the States after the 1st day of April, 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from the 1st day of April, 1996.

(3) Any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after the 1st day of April, 1996 but before the commencement of this Act shall be deemed to have been distributed in accordance with the provisions of article 270.

## THE CONSTITUTION (EIGHTY-FIRST AMENDMENT) ACT, 2000

[9th June, 2000.]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Eighty-first Amendment) Act, 2000. Short title.

2. In article 16 of the Constitution, after clause (4A), the following clause shall be inserted, namely:—

Amendment  
of article 16.

“(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.”.

**THE CONSTITUTION (EIGHTY-SECOND AMENDMENT)  
ACT, 2000**

[8th September, 2000.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first year of the Republic of India as follows:—

1. This Act may be called the Constitution (Eighty-second Amendment) Act, 2000.
2. In Article 335 of the Constitution, the following proviso shall be inserted at the end, namely:—

Short title.

Amendment of article 335.

“Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.”

THE CONSTITUTION (EIGHTY-THIRD AMENDMENT)  
ACT, 2000

[8th September, 2000.]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Eighty-third Amendment) Act, 2000.

Short title.

2. In article 243M of the Constitution, after clause (3), the following clause shall be inserted, namely:—

Amendment  
of article  
243M.

"(3A) Nothing in article 243D, relating to reservation of seats for the Scheduled Castes, shall apply to the State of Arunachal Pradesh.".

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